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Notice of Trust and Agency Relation
Relating to Income Tax



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NOTES

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Technical Notes to a Notice of Ways and Means Motion Relating to Income Tax

Issued by
The Honourable Michael Wilson
Minister of Finance

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September 5, 1995

Technical Notes to a Notice of Ways and Means Motion Relating to Income Tax

Issued by
The Honourable Michael Wilson
Minister of Finance

September 9, 1985



Department of Finance
Canada

Ministère des Finances
Canada

Preface

The income tax Notice of Ways and Means Motions tabled in the House of Commons on September 9, 1985 contains the amendments that will be included in a "Technical Bill" to improve the Income Tax Act.

This Ways and Means Motion incorporates provisions relating to tax administration that were tabled in the House of Commons on January 30, 1985 and technical tax amendments that were tabled on May 9, 1985. Many of these provisions have benefited from a comprehensive review by the House of Commons Standing Committee on Finance, Trade and Economic Affairs. A number of technical improvements have been incorporated in this Motion as a result of both the Committee's review as well as constructive comments of tax practitioners and other interested Canadians.

As a result of the success of the consultative process, Parliament will be in a position to deal with these clarifying technical amendments in an expeditious manner.

A handwritten signature in dark ink, reading "Michael Wilson". The signature is fluid and cursive, with the first name "Michael" and the last name "Wilson" clearly distinguishable.

The Honourable Michael Wilson
Minister of Finance.

These technical notes are provided to assist in an understanding of the amendments proposed to be made to the Income Tax Act and related statutes. They are intended for information purposes only and should not be construed as an official interpretation of the provisions they describe.

Cette publication est également offerte en français

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Taxable Income Defined

ITA
2(2)

Clause 1

Taxable income of a taxpayer for a taxation year is defined in subsection 2(2) of the Act as his income for the year plus the addition and minus the deductions permitted under Division C of the Act such as personal exemptions and charitable donations. New section 110.5 permits a corporation to add an amount in computing its taxable income in order to increase the amount of its foreign tax credit. The amendment to subsection 2(2) is consequential on the introduction of this new provision and simply refers to “the additions” rather than “the addition” permitted by Division C for the purpose of computing taxable income. This amendment is applicable to the 1985 and subsequent taxation years.

Inclusions in Income from Employment

ITA
6(1)(b)(ix)(B)

Clause 2

Section 6 of the Act deals with employment income. This section provides for the inclusion in an employee’s income of most employment-related benefits other than those specifically excluded. The amendments to this section relate to the special exclusions for schooling allowances for an employee’s child and for the living expenses at a temporary work site.

Subclause 2(1)

Paragraph 6(1)(b) of the Act lists a number of exceptions from the requirement to include in income any allowance received by an employee relating to personal or living expenses. There is a special exclusion for reasonable schooling allowances paid by an employer to his employee to defray the costs of sending the employee’s child away from home to attend, on a full-time basis, a school providing instruction in the official language of Canada primarily used by the employee. To qualify for the exclusion, the school must be the school closest to the employee’s home that provides instruction in his language. Under the present law, a problem exists where the school or closest community providing such schooling does not have reasonable boarding facilities for the child. In such cases, the child will not be able to attend that school and, as a result, the employee will not qualify for the exclusion. To resolve this problem, the amendment extends the exemption to the situation where the school attended, while not the closest school, is in a community not further from the employee’s home than the nearest community having suitable boarding facilities and providing instruction in the appropriate language. This amendment is applicable to the 1984 and subsequent taxation years.

Subclauses 2(2) and (3)

ITA
6(6)

Subsection 6(6) of the Act excludes from the income of an employee reasonable amounts received by him for board and lodging at a special work site in connection with temporary employment away from his ordinary place of residence. The amendments to the subsection clarify that the exclusion is not denied to an employee who maintains a temporary place of residence at the work site while having a principal place of residence elsewhere. To qualify for this income exclusion, the taxpayer's principal place of residence must not be at the special work site and must remain available for his occupancy and not be rented by him to any other person during the period of his temporary employment at the special work site. These amendments are applicable to the 1985 and subsequent taxation years.

Subclauses 2(4) and (5)

These set out the effective dates for the amendments to section 6 of the Act.

Employee Stock Options

Clause 3

Section 7 of the Act deals with employee stock options. It sets out the rules for determining the amount to be included in an employee's income in respect of the exercise or sale of his rights under an employment-related stock option arrangement.

Subclause 3(1)

ITA
7(1.4) and (1.5)

Subsection 7(1) of the Act provides for the inclusion of stock option benefits in employment income. The benefit is included in the employee's income at the time he exercises the option and is measured as the excess of the fair market value of the shares at that time over the price paid for them.

New subsection 7(1.4) provides an exception to this income inclusion where the disposition occurs because of the amalgamation or merger of the corporation that granted the option. On an amalgamation, where no other consideration is received, the disposition of the option is considered not to have taken place if the option in the predecessor corporation is exchanged for an option in the newly amalgamated corporation. In this case, the new option agreement is considered to be a continuation of the existing option agreement and the new corporation formed as a result of the amalgamation or merger is treated as a continuation of the predecessor corporation that originally granted the option.

An exception under subsection 7(1.1) generally provides that acquisitions of shares of Canadian-controlled private corporations by arm's-length employees will not give rise to employment income where the employee holds the shares for more than two years. Instead, the benefit is treated as a capital gain and is not recognized until the shares are disposed of.

Under the existing law, an amalgamation or share-for-share exchange within two years of the employee's acquisition of the shares technically results in a disposition and thus the special capital gains treatment under subsection 7(1.1) is denied. New subsection 7(1.5) accommodates this problem by providing that a disposition on an exchange of shares occurring as a result of an amalgamation or merger to which subsection 87(4) of the Act applies or on a share-for-share exchange to which subsection 85.1(1) of the Act applies will not be treated as a disposition for the purposes of the two-year rule. In these circumstances, the new share will be considered to be the same share as that for which it was exchanged and the corporation formed as a result of the amalgamation or merger or the purchaser corporation will be considered to be the same corporation as that which issued the original share.

New subsection 7(1.4) is applicable with respect to rights acquired on an amalgamation or merger after 1984 and new subsection 7(1.5) is applicable with respect to shares acquired as a result of amalgamations or mergers or share-for-share exchanges after 1984.

Subclauses 3(2) and (3)

These set out the effective dates for the amendments to section 7 of the Act.

Work in Progress

Clause 4

ITA
10(6)

Section 10 of the Act provides the rules applicable for the purposes of valuing inventory in computing a taxpayer's income from a business. The work-in-progress inventories of certain professions were required for the first time in 1983 to be included in inventory for this purpose. Subsection 10(6) of the Act provided a two-year transitional rule for determining the amount in respect of such professional work in progress. Generally only one-half of the value was required to be treated as inventory in the 1983 taxation years of those professionals affected by this rule. As this transitional period has ended, subsection 10(6) is no longer necessary and is being repealed for the 1984 and subsequent taxation years.

Amounts Included in Income

Clause 5

Section 12 of the Act requires the inclusion of certain specifically enumerated items in computing a taxpayer's income from a business or from property.

Subclause 5(1)

ITA
12(1)(o)(iv)

Paragraph 12(1)(o) of the Act requires a taxpayer to include in his income amounts which became receivable by the federal or a provincial government in respect of production from an oil or gas or mining property in which the taxpayer had an interest or in respect of the acquisition, development or

ownership of a resource property in Canada. The amendment to subparagraph 12(1)(o)(iv) removes the reference to resource properties acquired by the taxpayer before 1972. This reference is no longer appropriate as a consequence of the amendment to the definition “Canadian resource property” in paragraph 66(15)(c) of the Act to include both post-1971 and pre-1972 resource properties. The amendments to that definition and this provision are applicable to taxation years commencing after 1984.

Subclause 5(2)

ITA
12(1)(o)(v)

Subparagraph 12(1)(o)(v) of the Act describes the resource production in respect of which amounts receivable by the federal or a provincial government are required to be included in a taxpayer’s income. There are two amendments to this subparagraph. One provides that the subparagraph will apply to the processing of iron ore only to the pellet stage rather than to the prime metal stage. This recognizes that the processing of iron ore beyond the pellet stage to the prime metal stage is treated under the Act as a manufacturing and processing activity rather than as a resource activity. The other amendment recognizes that the processing of tar sands to the crude oil stage is treated as a resource activity and that any further processing is treated as a manufacturing activity. The use of the expression “crude oil stage” provides more appropriate terminology for the processing of tar sands and does not result in any change in administrative practice. The new term “tar sands” is being added to subsection 248(1). The amendments to subparagraph 12(1)(o)(v) apply to amounts receivable after 1984.

Subclause 5(3)

ITA
12(8)

Subsection 12(8) of the Act permits an individual to report accrued interest on a debt obligation on an annual basis instead of triennially. Under the existing law the election to report annually must be made in writing with the issuer of the debt obligation. The amendment to this subsection removes the requirement to notify the issuer. Instead, the individual is required only to make the election in his tax return. This change will ease the administrative burden of issuers while at the same time facilitating the method by which individuals can choose an annual accrual basis for the reporting of interest income.

This amendment is applicable to the 1985 and subsequent taxation years.

Subclause 5(4)

ITA
12(9.1)

Paragraph 12(1)(c) of the Act requires the inclusion in income of all amounts received in a year as, on account, or in lieu of interest except to the extent that such amounts were included in income in a previous year. Concern has been expressed that this rule may capture too much income with respect to the cashing of interest coupons on what are generally referred to as stripped bonds. Stripped bonds consist of debt obligations from which the

interest coupons have been removed and sold separately. The Act does not explicitly exclude from income a taxpayer's cost of the coupon. New subsection 12(9.1) gives recognition to the taxpayer's cost of the coupon by ensuring that the total inclusion in the taxpayer's income in respect of the coupon is limited to the amount by which his proceeds on the sale or redemption of the coupon exceed its cost to him. The amendment applies to taxation years commencing after 1981.

Subclause 5(5)

ITA
12(11)(a)

Paragraph 12(11)(a) of the Act defines an investment contract for the purposes of the rules that require an individual to report accrued interest earned to each third anniversary of the investment. Paragraph 12(11)(b) provides that the reference date for a third anniversary is the issue date of the investment. Where an individual acquires an investment in a year subsequent to its issue, paragraph 12(11)(a) as presently worded requires that, in order to determine if he has an investment contract, the taxpayer has to wait until the date that is three years after he acquired the investment. This requirement can create a conflict since the taxpayer and the tax administration may only be able to establish whether the investment is subject to the three-year accrual rule after the third anniversary date has passed. The amendment to paragraph 12(11)(a), which is applicable to the 1985 and subsequent taxation years, overcomes this problem where the investment was acquired by the individual in a year subsequent to its issue by removing the requirement for a three-year waiting period. As a result of this change, the issue date and its anniversary dates every three years thereafter will govern for the purposes of the accrual rules.

Subclause 5(6)

ITA
12(11)(b)

Paragraph 12(11)(b) of the Act defines the term "third anniversary" of an investment contract. The year in which the third anniversary of an investment contract occurs is the year in respect of which accrued interest earned on the contract is required to be reported. The amendment to paragraph 12(11)(b), applicable on Royal Assent to the implementing legislation, stipulates that the date of disposition of an investment contract will be deemed to be a third anniversary of that contract. This amendment simply clarifies that any income earned during the period from the previous third anniversary to the date of disposition will be required to be reported as interest income in the year of disposition.

Subclauses 5(7) to (10)

These set out the effective dates for the amendments to section 12 of the Act.

**Accrued Income on Life
Insurance Policies
and Annuities**

Clause 6

The rules relating to the accrual of income on certain life insurance policies and annuities are set out in section 12.2 of the Act.

ITA
12.2(4.1)

New subsection 12.2(4.1) is introduced to permit a taxpayer to revoke an annual accrual election previously made under subsection 12.2(4) in respect of an interest in a life insurance policy or an annuity contract. This may be done by notifying the issuer in writing at any time not later than 120 days after the end of a taxation year. Where the election has been revoked, the general three-year accrual rules will apply for that year and for subsequent years for the purposes of determining the taxpayer's income in respect of his interest in the contract or policy. Technically, new paragraph 12.2(4.1)(a) provides that the taxpayer will be deemed not to have made an election under subsection 12(4) in respect of that interest. This ensures that the taxpayer's interest in the policy or contract becomes subject to the normal three-year accrual rules as set out in subsection 12.2(3) and paragraph 56(1)(d.1). In effect, the date on which accrued income will be taxed in these circumstances will be determined in future as if the annual accrual election had never been made. In addition, new paragraph 12.2(4.1)(b) provides that once the annual accrual election under subsection 12.2(4) has been revoked in respect of his interest in a life insurance policy or annuity contract, the taxpayer cannot subsequently make another subsection 12.2(4) election covering the same policy or annuity.

New subsection 12.2(4.1) is applicable to the 1985 and subsequent taxation years.

Rules Relating to
Depreciable Property

Clause 7

Section 13 of the Act provides various rules relating to the treatment of depreciable property, including various adjustments to capital cost, the income inclusion in respect of recaptured depreciation and the deduction provided for terminal losses.

Subclause 7(1)

ITA
13(7.2)

Subsections 13(7.1) and 127(12) of the Act taken together require a partnership or trust to reduce the capital cost to it of depreciable property to the extent that it has allocated the federal investment tax credit in respect of that property to a partner or beneficiary. New subsection 13(7.2) ensures that a similar cost base reduction is required where any other form of government assistance is received by a taxpayer who is a beneficiary of a trust or a member of a partnership in respect of depreciable property held or acquired by the trust or partnership. This amendment is applicable with respect to property acquired after May 9, 1985 other than property acquired pursuant to an agreement in writing entered into before May 10, 1985.

Subclauses 7(2) and (3)

ITA
13(21.1)

Subsection 13(21.1) of the Act provides special rules where a building is disposed of for less than its cost amount. In the typical case, where both the land and building are disposed of at the same time, the loss on the sale of the

building is reduced to the extent of any gain on the sale of the land. Technically this is achieved by increasing the proceeds of disposition of the building by the lesser of the amount of the loss on the building and the gain on the sale of the land. The capital gain on the sale of the land is then reduced by a corresponding amount. Amendments are proposed to this subsection to accommodate three problems as described below.

Subsection 13(21.1) of the Act is intended to apply where a building is sold at a tax loss. Generally, this occurs where the proceeds of disposition of a building are less than its cost amount – that is, less than its proportionate share of the undepreciated capital cost of the prescribed class in which the building is included. The amendments to the preamble of paragraph 13(21.1)(a) ensure that the provisions of subsection 13(21.1) will only apply where the proceeds of disposition of a building are less than both its cost amount and its capital cost. This remedies an anomaly that could occur in those circumstances where the cost amount of a building exceeded its capital cost. In such circumstances, the rules in subsection 13(21.1) would have applied even though a gain had been realized on the sale of the building. This amendment is retroactive and applies coincidentally with the original introduction of subsection 13(21.1).

One of the numbers required in the calculations made under subsection 13(21.1) is the cost amount of the related land. Where the land was owned on January 1, 1972, however, its cost amount is determined by reference to the Income Tax Application Rules (ITAR). Subsection 26(3) of the ITAR provides a median rule for the determination of the cost amount which takes into consideration, as one factor, the proceeds of disposition of the land. In consequence, therefore, a circularity problem arises because the proceeds of disposition of the land must be known to determine its cost amount and the cost amount must be known to determine the proceeds of disposition under the rules as set out in subsection 13(21.1). The amendment to clause 13(21.1)(a)(i)(B) resolves this problem by providing that the cost amount of the land is to be determined by reference to its actual proceeds of disposition.

The other amendments to subsection 13(21.1) ensure that the rules therein may not be avoided by transferring land in non-arm's-length transactions. The amendments to subsection 13(21.1), other than those applicable to the preamble of paragraph (a) thereof, are applicable with respect to dispositions occurring after May 9, 1985, other than dispositions occurring pursuant to the terms of an agreement in writing entered into on or before that date.

Subclauses 7(4) to (6)

These set out the effective dates for the amendments to section 13 of the Act.

Loan to Non-Resident

Clause 8

ITA
17(1)

Subsection 17(1) of the Act provides that, where a corporation has loaned money to a non-resident and not included interest at a reasonable rate in its

income, interest at a prescribed rate will be deemed to have been received by it. The subsection is being amended, effective on Royal Assent to the enacting legislation, for the purpose of making the wording consistent with that in other provisions of the Act that refer to a prescribed rate of interest.

**Prohibition on Certain
Deductions**

Clause 9

Section 18 of the Act prohibits the deduction of certain items in computing a taxpayer's income from a business or property.

Subclause 9(1)

ITA
18(1)(m)(iv)

Paragraph 18(1)(m) of the Act disallows the deduction of royalties, taxes, lease rentals or bonuses paid to the federal or a provincial government by a taxpayer in respect of production from a resource property in which the taxpayer had an interest or in respect of the acquisition, development or ownership of a resource property in Canada. The proposed amendment to subparagraph 18(1)(m)(iv) deletes the reference to resource properties acquired by a taxpayer before 1972. This reference is no longer appropriate as a consequence of the amendment to the definition "Canadian resource property" in paragraph 66(15)(c) to include both post-1971 and pre-1972 resource properties. The amendments to that definition and to this provision are applicable to taxation years commencing after 1984.

Subclause 9(2)

ITA
18(1)(m)(v)

Subparagraph 18(1)(m)(v) of the Act describes the resource production in respect of which royalties payable to the federal or a provincial government are not deductible. There are two amendments to this subparagraph. One provides that the subparagraph will apply to the processing of iron ore only to the pellet stage rather than to the prime metal stage. This recognizes that the processing of iron ore beyond the pellet stage to the prime metal stage is treated under the Act as a manufacturing and processing activity rather than as a resource activity. The other amendment recognizes that the processing of tar sands to the crude oil stage is treated as a resource activity and that any further processing is treated as manufacturing. The use of the expression "crude oil stage" provides more appropriate terminology for the processing of tar sands and does not result in any change in administrative practice. The new term "tar sands" is added to subsection 248(1). The amendments to subparagraphs 18(1)(m)(v) are applicable to amounts payable after 1984.

Subclause 9(3)

ITA
18(3.1)(a)

Subsection 18(3.1) of the Act requires taxpayers to capitalize what are generally referred to as "soft costs" incurred during the period of construction, renovation or alteration of a building. As such, these costs are treated as a part of the cost of the building rather than as a deductible expense. The

amendment to paragraph 18(3.1)(a) clarifies that the capitalization of soft costs attributable to that period is required even if they are incurred outside the period. The amendment to paragraph 18(3.1)(a) is applicable in respect of outlays and expenses made or incurred after May 9, 1985.

Subclause 9(4)

ITA
18(6)

Subsections 18(4) to (8) of the Act set out what are generally referred to as the “thin capitalization” rules which limit the deduction by corporations of interest on debts owing to certain specified non-residents. Under subsection 18(4) interest is disallowed as a deduction to the extent that the borrowing corporation’s debt-equity ratio in relation to specified non-residents exceeds 3 to 1. Subsection 18(6) is designed to ensure that the disallowance cannot be circumvented by a lending arrangement in which a specified non-resident shareholder of a corporation, instead of making a loan directly, makes it through an intermediary – for example by lending funds to another person on condition that the other person make a loan to the corporation. The amendment to subsection 18(6), which is applicable with respect to loans outstanding in taxation years of corporations resident in Canada referred to in subsection 18(6) commencing after May 9, 1985, extends the application of subsection 18(6) to those intermediary loans that are made by any non-resident or non-resident-owned investment corporation who does not deal at arm’s length with a specified shareholder of a debtor corporation.

Subclause 9(5)

ITA
18(7)

Subsection 18(7) of the Act was designed to ensure that a corporation may not elect under section 21 of the Act to capitalize interest as a cost of depreciable property or to treat such an amount as a resource exploration and development expense, where the interest would otherwise be disallowed as a deduction under the thin capitalization rules. However, since an election under section 21 is available only in respect of interest that would otherwise be deductible in computing income, subsection 18(7) is superfluous and is, therefore, repealed for taxation years commencing after 1984.

Subclauses 9(6) to (9)

These set out the effective dates for the amendments to section 18 of the Act.

**Deductions Permitted -
Business and Property
Income**

Clause 10

Section 20 of the Act sets out rules providing specifically for the deduction of certain outlays, expenses and other costs in computing a taxpayer’s income from business or property for a year.

Subclause 10(1)

ITA
20(1)(hh)

Paragraph 20(1)(hh) of the Act allows a taxpayer a deduction in respect of the repayment of a life insurance policy loan to the extent that the original

receipt of the policy loan gave rise to an inclusion in his income. As a result of the opening words of subsection 20(1), this deduction is technically only available in computing the taxpayer's income from a business or property. To overcome this restriction, paragraph 20(1)(hh) is being repealed and replaced by new paragraph 60(s). This ensures that repayments on policy loans can be deducted against all sources of income. This amendment is applicable to the 1982 and subsequent taxation years.

Subclause 10(2)

ITA
20(1)(ll)

Section 20 of the Act allows certain deductions in calculating a taxpayer's income. Paragraph 20(1)(ll) allows a special deduction in computing income in those circumstances where interest received on a tax refund is subsequently determined to have exceeded the interest to which the taxpayer was entitled. In that case, to the extent that the interest was previously included in taxable income, this paragraph provides that the subsequent repayment of such interest will be deductible. The amendment provides that the deduction will also apply to a recovery by Revenue Canada of interest that had previously been paid to a taxpayer on a repayment of an amount of tax in controversy. The recovery of interest in these circumstances is provided for in subsection 164(4). This amendment is applicable to the 1985 and subsequent taxation years.

Subclause 10(3)

ITA
20(24) and (25)

Paragraph 12(1)(a) of the Act provides for the inclusion in business income of amounts received by a taxpayer from customers in a taxation year on account of goods not delivered or services not rendered before the end of the year. If such amounts are subsequently repaid to the customers, paragraph 20(1)(m.2) of the Act permits a deduction in the year when the amounts are repaid.

Where a taxpayer transfers his business to another taxpayer (for example, a subsidiary) and pays the other taxpayer to take over his obligation for delivering the goods or services, paragraph 20(1)(m.2) does not permit a deduction by the taxpayer as the amount paid by him would not technically qualify as a "repayment". To correct this problem, new subsection 20(24) is added to provide a deduction to the payer. Conversely, the recipient must include the amount in computing his income and will be allowed a reserve under paragraph 20(1)(m) to the extent that the goods or services are not delivered by the end of his taxation year. A reserve will not be allowed to the payer in respect of the obligation assumed by the recipient.

In order to qualify for the deduction, the payer and the recipient must make a joint election in writing on or before the earlier of the date on which the payer's or recipient's tax return is due for the year in which the payment was made. However, a special coming-into-force provision allows the election to be filed within 90 days following Royal Assent to the enacting legislation.

These new subsections are applicable to the 1982 and subsequent taxation years.

Subclauses 10(4), (5) and (6)

These set out the effective dates for the amendments to section 20 of the Act.

Capitalization of Interest Costs

Clause 11

Section 21 of the Act permits taxpayers to elect to capitalize the cost of borrowed money used to acquire depreciable property and resource properties.

Subclauses 11(1) and (2)

ITA 21(1)(a) and (3)

Amendments were made to paragraph 21(1)(a) and subsection 21(3) of the Act effective after 1981 to add a reference to subsection 18(3.1) of the Act which requires the capitalization of "soft costs" incurred during the period of construction of buildings, including certain interest expenses. While these references were added to ensure that an election could be made under subsection 21(3) for years subsequent to the year the asset had been acquired, the amendments did not clearly provide this result. The amendments now being made to these provisions are intended to replace the earlier changes and are designed to allow access to the election that may be made under subsection 21(3) in circumstances where no election was available under subsection 21(1) in the year a property was acquired because the interest expenses incurred in that year were already capitalized by virtue of subsection 18(3.1). As well, these amendments clarify that no election may be made under these provisions in respect of amounts that were not otherwise deductible from income.

The amendments are applicable with respect to taxation years commencing after 1984.

Subclause 11(2)

ITA 21(2) and (4)

Subsection 248(1) of the Act is being amended to add definitions of the terms "Canadian exploration and development expenses", "foreign exploration and development expenses", "Canadian exploration expense" and "Canadian development expense" for all purposes of the Act. The amendments to subsections 21(2) and (4) delete the existing references to sections 66, 66.1, 66.2 and 66.4 which will not be necessary once these new definitions take effect. Subsection 21(4) is also amended to clarify that it does not permit an election to treat an amount as an exploration or development expense if the amount is not otherwise deductible in computing income. These amendments are applicable to taxation years commencing after 1984.

Subclause 11(3)

This sets out the effective date for the amendments to section 21 of the Act.

Judges

Clause 12

Subclause 12(1)

ITA
24.1

Section 24.1 permits a taxpayer appointed a judge in a taxation year by the Governor in Council or the Lieutenant Governor in Council of a province to elect to defer a portion of his income from his professional practice for a fiscal period commencing before and ending in the year to the next following year. This amendment extends the application of the section so it will also apply to persons appointed judges by the Governor General.

This amendment is applicable to appointments made in the 1984 and subsequent taxation years.

Subclause 12(2)

This sets out the effective date for the amendment to section 24.1 of the Act.

Professional Business

Clause 13

Subclause 13(1)

ITA
34(1)

Section 34 of the Act provides special rules for computing the income of a taxpayer for a taxation year from a business that is the professional practice of an accountant, dentist, lawyer, medical doctor, veterinarian or chiropractor. The amendments to subsection 34(1) eliminate the rules which determine when an amount becomes receivable by the taxpayer in respect of property sold or services rendered in the course of the business. These rules are inappropriate for two reasons. First, they are virtually identical to those in paragraph 12(1)(b) of the Act and to that extent are unnecessary. Second, to the extent that they differ from the provisions of paragraph 12(1)(b), they require the inclusion in income of amounts that become receivable in a taxation year in respect of property sold or services rendered after the end of the year. Such amounts are not included in the income of other taxpayers. These special rules are eliminated and the remaining provisions of section 34 are consolidated into the revised subsection 34(1). These amendments are applicable to the 1985 and subsequent taxation years.

An amendment, applicable to the 1985 and subsequent taxation years, repeals subsection 34(2) of the Act. This amendment is strictly consequential on the amendments to subsection 34(1) of the Act which incorporate the rule currently contained in this provision.

These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 13(2)

This subclause amends the Act as indicated in Schedule I as a consequence of the amendments to section 34 of the Act.

Subclause 13(3)

This sets out the effective date for the amendments to section 34 of the Act and the amendments listed in Schedule I.

Gain or Loss on Disposition of Property

Clause 14

Section 39 of the Act sets out the meaning of capital gain, capital loss and business investment loss and provides a number of special rules relating to capital gains including the provisions which guarantee capital gains treatment to certain taxpayers in respect of the disposition of Canadian securities.

Subclause 14(1)

ITA
39(1)(a)(ii)

Paragraph 39(1)(a) of the Act contains a description of a taxpayer's capital gain for a taxation year from the disposition of property. The paragraph provides that dispositions of certain classes of properties are to be excluded in determining the capital gain. One of the classes to be excluded is described in subparagraph 39(1)(a)(ii) which reads as follows: "property referred to in any of paragraphs 59(2)(a) to (e)". That cross-reference to 59(2)(a) to (e) is being changed to "Canadian resource property" and "foreign resource property" as a consequence of the amendment to the definition of "Canadian resource property" to include property acquired before 1972. This amendment is applicable to taxation years commencing after 1984.

Subclause 14(2)

ITA
39(1)(c)(vi)

Paragraph 39(1)(c) of the Act defines the business investment loss that is available with respect to shares and debt issued by a Canadian-controlled private corporation. A special rule requires taxable dividends received after 1971 to be deducted in determining the business investment loss from the disposition of a share of a Canadian-controlled private corporation that was issued before 1972. An exception is provided where the share was acquired by the taxpayer after 1971 in an arm's-length transaction. The amendment to subparagraph 39(1)(c)(vi) is relieving. It extends the exception to a share substituted for a share issued before 1972 if the substituted share was acquired after 1971 by the taxpayer in an arm's-length transaction. This amendment is applicable to the 1984 and subsequent taxation years.

Subclause 14(3)

ITA
39(5)(d)

Subsection 39(4) of the Act guarantees capital gains treatment to certain taxpayers on the disposition of Canadian securities, thereby removing taxpayer uncertainty that the gain might be full income. Subsection 39(5) of the Act lists certain categories of taxpayer who are not entitled to elect this guaranteed capital gains treatment and one such category consists of credit unions. The amendment to paragraph 39(5)(d) is strictly of a housekeeping nature and is effective on Royal Assent to the enacting legislation. It simply deletes the italicized words in the existing provision that reads as follows: “a credit union *within the meaning assigned by subsection 137(6)*” which are unnecessary since the definition of “credit union” is applicable for all purposes of the Act by virtue of subsection 248(1).

Subclauses 14(4) and (5)

These set out the effective dates for the amendments to subparagraph 39(1)(a)(ii) and (1)(c)(vi) of the Act.

Capital Gains and Losses

Clause 15

Section 40 of the Act sets out a number of rules for determining the amount of capital gains and capital losses.

Subclause 15(1)

ITA
40(2)(g)(iii)

Subparagraph 40(2)(g)(iii) of the Act denies a capital loss on the disposition of any personal-use property, such as an automobile, that is not “listed personal property” as defined in section 54. The amendment to the subparagraph allows a capital loss on the disposition of a debt that arose from the sale of personal-use property to the extent that the loss is allowed by subsection 50(2) of the Act. An amendment to that subsection allows a loss on an arm’s-length debt that was received as consideration on the disposal of personal-use property to the extent of any gain resulting from the disposition. The amendment to subparagraph 40(2)(g)(iii) is applicable to the 1985 and subsequent taxation years.

Subclause 15(2)

ITA
40(4)

Where a principal residence has been disposed of on a rollover basis by a taxpayer to his spouse or a qualifying trust for his spouse, subsection 40(4) of the Act provides special rules for the purpose of computing the capital gain on a disposition of the principal residence by the spouse or spouse trust, as the case may be. For that purpose, the spouse or spouse trust is treated as having owned the property throughout the period when the taxpayer owned it, and the property is treated as having been the principal residence of the spouse or spouse trust for years when it was the principal residence of the

taxpayer. As a result, the combined years of ownership and use of the property by both parties are taken into account for the purpose of the formula in paragraph 40(2)(b) which determines the exempt portion of the capital gain on disposition of the principal residence.

Subsection 40(4) in its present form does not technically apply in respect of depreciable property of a prescribed class since subparagraph 70(6)(d)(i) and paragraph 73(1)(e) treat such property as having been acquired by an individual at the transferor's share of undepreciated capital cost rather than at his adjusted cost base. The amendment to subsection 40(4) effectively extends its scope to apply to a property that was depreciable property of the transferor (such as a rental property) before it was transferred to his spouse or spouse trust. As a result, the formula in paragraph 40(2)(b) of the Act will not exempt capital gains on a property for the period while it was used to earn rental income before the property was transferred to a spouse or spouse trust who subsequently used it as a principal residence. This amendment is applicable in computing the gain from a disposition occurring after May 9, 1985.

Subclause 15(3)

ITA
40(5)

In addition to allowing a tax-free transfer of a property of a taxpayer to his spouse, subsections 70(6) and 73(1) of the Act allow a tax-free transfer of property to a qualifying trust for the spouse of the taxpayer. Subsection 40(4) ensures that the trust is entitled to claim the principal residence exemption for those years when the property was the principal residence of the taxpayer. Subsection 40(5) allows the spouse trust to also claim a principal residence exemption for those years in which the property was ordinarily inhabited by the spouse beneficiary and was designated as a principal residence by the trust and the spouse. Paragraph 40(5)(b) requires the designation of a principal residence of a spouse trust to be made by both the trust and the spouse. This paragraph is repealed for dispositions occurring after May 9, 1985 as a consequence of an amendment to paragraph 54(g). This latter provision as amended treats a property designated as a principal residence by a spouse who is a beneficiary under a spouse trust as having also been so designated by the trust. It also treats a property designated as a principal residence by a spouse trust to be a property so designated by the spouse. The amendment to paragraph 54(g) ensures that a spouse trust is included in the family unit in which the spouse is included for purposes of the rule limiting the principal residence exemption to one residence per family unit per year.

Subclause 15(4)

ITA
40(7)

New subsection 40(7) provides a special rule for the purpose of computing a taxpayer's capital gain on the disposition of a principal residence acquired by him in satisfaction of all or any part of his capital interest in a trust. For that purpose, except where the trust is a spouse trust and the residence is

distributed by the trust when the spouse is alive to a person other than the spouse, the taxpayer is treated as having owned the residence continuously since the trust last acquired it. This rule is relevant for the purposes of the formula in paragraph 40(2)(b) of the Act, which determines the portion of a taxpayer's gain from the disposition of a principal residence which is not subject to tax, and for the purposes of the definition of "principal residence" in paragraph 54(g) of the Act. Where a taxpayer disposes of a property that he acquired in satisfaction of his capital interest in a trust, the rules in new subsection 40(7) prevent the formula in paragraph 40(2)(b) from exempting the gain of the taxpayer that accrued while the property was owned by the trust except where the property qualified as the principal residence of the taxpayer. New subsection 40(7) is applicable with respect to dispositions of property occurring after May 9, 1985.

Subclauses 15(5) and (6)

These set out the effective dates for the amendments to section 40 of the Act.

Dispositions Subject to Warranty

ITA
42

Clause 16

Section 42 provides that, in computing a taxpayer's proceeds of disposition in respect of a capital property, he must include the consideration for any warranty, covenant or other obligation in respect of the disposition. It also provides that any outlay or expense made by the taxpayer under any such obligation is a capital loss in his taxation year in which it is made provided it is made in the year in which the property was disposed of or within the six subsequent taxation years. The amendment to section 42, which is applicable to the 1985 and subsequent taxation years, eliminates this six-year limitation so that such outlays or expenses will be considered to be capital losses for any taxation year in which they are made by the taxpayer.

Exchanges of Property

ITA
44(1.1)

Clause 17

Section 44 of the Act provides special rules where a capital property, such as real property, used in a business is replaced. In this case, under subsection 44(1) any capital gain arising on the disposition of a qualifying property (referred to in the Act as a "former property") is reduced to the extent that the proceeds of disposition are reinvested in a replacement property. Where only a part of the proceeds is reinvested, a partial rollover is available. Where the proceeds are not received in full, subsection 44(1) also provides for the deduction of a capital gains reserve. This reserve is generally limited to a maximum of five years. Under subsection 44(1.1) the maximum reserve is extended to 10 years where the property was a qualifying farm property disposed of by a taxpayer to his child and the proceeds are reinvested in a replacement property. The existing provision is misleading in that it refers specifically to certain properties – a share of a family farm corporation, an interest in a family farm partnership or a share of a small business

corporation – that cannot in any event qualify for the replacement property rules. The amendment removes the references to these properties and refers to real property to which the rules in subsection 73(3) apply – that is, to land and buildings in Canada that were used by the taxpayer (or his spouse or children) in a farming business. This amendment simply corrects a technical defect and does not in any way detract from the similar 10-year reserve that is available under subsection 40(1.1) on the sale of the shares of a small business or family farm corporation or an interest in a family farm partnership by a taxpayer to his child. The amendment to subsection 44(1.1) is applicable on Royal Assent to the enacting legislation.

Principal Residence Election

Clause 18

ITA
45(3) and (4)

When an individual acquires residential real estate for use in a business or for rental purposes and at a later time occupies the property as his principal residence, paragraph 45(1)(a) of the Act treats him as having disposed of the property at its fair market value at that time. This deemed disposition on change of use may result in a realization by the taxpayer of a recapture of depreciation he had previously claimed and a recognition of a capital gain. New subsection 45(3) allows the tax on the capital gain on such a change of use to be postponed until the principal residence is later disposed of.

New subsection 45(3) is applicable to property that a taxpayer starts to use as his principal residence after 1981 and it allows him to elect out of the rule in paragraph 45(1)(a). As a result of the subsection 45(3) election, recognition of any capital gain or loss accruing on the property during its income-producing years can be deferred until the property is actually disposed of. The election must be made by the taxpayer on or before the earlier of two days – the day that is 90 days after the Minister of National Revenue demands the election and April 30 following the year in which the property is actually disposed of (or April 30, 1986 where the property is actually disposed of before 1985).

New subsection 45(4) provides that the election under subsection 45(3) cannot be made if capital cost allowance is claimed on the property for any taxation year ending after 1984 by the taxpayer, his spouse or a trust in favour of his spouse. The recapture of capital cost allowance claimed on a property by a taxpayer for a taxation year ending before 1985 will not be affected by an election under subsection 45(3) by the taxpayer in respect of the property.

A related amendment adds a reference to subsection 45(3) in subparagraph 54(g)(ii). As a result of that amendment, an individual may designate a property covered by a subsection 45(3) election as his principal residence for up to four of the years before he ceased to rent it or use it in a business.

Subsections 45(3) and (4) are applicable for property that a taxpayer starts to use as his principal residence after 1981.

Clause 19

Subclause 19(1)

ITA
47.1(7)

Subsection 48(1.1) of the Act provides that where a participant under an indexed security investment plan (ISIP) ceases to be resident in Canada, each plan under which he is a participant shall be treated as having been terminated immediately before that time. The amendment to subsection 47.1(7) simply adds a reference to subsection 48(1.1) and clarifies that the gain or loss that arises on the deemed termination of an ISIP in these circumstances will be calculated in accordance with the provisions of section 47.1. This amendment is applicable after September 30, 1983, the date on which the provisions relating to ISIPs were first applicable.

Subclause 19(2)

ITA
47.1(20)(e)

Subsection 47.1(20) of the Act contains special rules to deal with those circumstances where a taxpayer owns an interest in a related segregated fund trust under an ISIP administered by an insurer. Normally the cost of a qualified security acquired under an ISIP includes fees related to the acquisition of the security. However, by virtue of clause 138.1(1)(e)(ii)(B) of the Act, the cost of an interest in a related segregated fund trust does not include the acquisition fee. New paragraph 47.1(20)(e) provides that such fees will be included in the cost of such interests where they are acquired under an ISIP. This amendment is effective after September 30, 1983.

Subclause 19(3)

This sets out the effective date for the amendments to section 47.1 of the Act.

Bad Debts

Clause 20

ITA
50(2)

Subsection 50(2) of the Act provides special rules that apply to a taxpayer where a debt owing to him in respect of personal-use property is established by him to have become a bad debt in a taxation year. The taxpayer is treated as having disposed of the debt at the end of the year for proceeds of disposition equal to the amount by which its adjusted cost base exceeds the original gain on the disposition of the personal-use property. This mechanism effectively limits the amount of the loss to the amount of any gain previously reported by the taxpayer on the original disposition. In addition, by virtue of subparagraph 40(2)(g)(iii) of the existing Act, the loss is only available in respect of the disposition of listed personal property.

Effective for the 1985 and subsequent taxation years, amendments to subparagraph 40(2)(g)(iii) and to subsection 50(2) permit capital losses to be claimed in respect of bad debts relating to the disposition of other personal-use property where the debt is owing to the taxpayer by a person with whom he deals at arm's length.

ITA
51

Clause 21

Section 51 of the Act sets out the rules relating to convertible securities. It allows certain convertible shares, bonds, debentures or notes of a corporation to be converted into shares of one class of the capital stock of the corporation on a tax-deferred “rollover” basis. The amendments to this section allow shares of more than one class of the capital stock of the corporation to be received on the conversion and provide that the cost of the converted property is to be allocated among the classes of shares received on the conversion in proportion to their respective fair market values immediately after the exchange. These amendments are applicable with respect to conversions of property occurring after May 9, 1985. The amendments are also applicable to conversions of property occurring on or before that date and after 1983 where the taxpayer so elects by notifying the Minister in writing by December 31, 1985.

ITA
53(1)(e)(vi)

Clause 22

Section 53 of the Act sets out the rules for determining the adjusted cost base of various types of property for the purpose of calculating the capital gain or loss on its disposition.

Subclause 22(1)

Paragraph 53(1)(e) of the Act sets out rules for determining the adjusted cost base of a partnership interest. Subparagraph (vi) thereof provides an addition to cost base for the non-taxable portion of the proceeds of disposition of a resource property acquired before 1972. This addition is no longer relevant as the transitional period during which the proceeds of such properties were not fully includible ended in 1980. The proposed amendment repeals this subparagraph for taxation years commencing after 1984 while preserving the appropriate cost base additions for those prior years during which a disposition occurred and a portion of the proceeds was non-taxable. Related amendments repeal subsections 59(3), (3.1) and (4) which set out the transitional provisions relating to dispositions of pre-1972 resource properties.

Subclause 22(2)

ITA
53(1)(j)

Section 7 of the Act treats an employee as having received a benefit by virtue of his employment in respect of certain share acquisitions by him or by a person with whom he does not deal at arm’s length pursuant to the employee stock option agreement. Where an employee acquires the share, paragraph 53(1)(j) of the Act permits him to add, in computing his adjusted cost base of the share, the amount of the benefit included in his income. However, no cost base adjustment is provided where the share is acquired by his spouse or other person with whom he does not deal at arm’s length. To address this circumstance, the amendment to paragraph 53(1)(j) permits the person who

acquires the share to add in computing its adjusted cost base the amount of any benefit included in the employee's income under section 7 in respect of the acquisition of the share. This amendment is applicable in computing the adjusted cost base of shares acquired after 1984.

Subclause 22(3)

ITA
53(1)(m)(ii)

Section 94.1 of the Act contains an anti-avoidance rule relating to investors in offshore investment funds. The rule operates by annually imputing an income amount to such investors. Where the rule applies to impute an income amount to a controlled foreign affiliate that is an investor in an offshore investment fund, subparagraph 53(1)(m)(ii) provides for an increase in the cost base of the affiliate's interest in the fund. The amount of the increase is the amount that is required to be included in the income of the person resident in Canada as a consequence of the application of the FAPI rules. The amendment to this subparagraph adjusts the amount of the increase so that it is the amount required to be included in the income of the controlled foreign affiliate. The amendment is applicable after 1984.

Subclause 22(4)

ITA
53(1)(n)

New paragraph 53(1)(n) provides an addition to the adjusted cost base of a property for the costs of surveying or valuing the property where such costs were incurred by the taxpayer for the purpose of the acquisition or the disposition of the property. This amendment recognizes these costs involved in establishing an appropriate sale or purchase price to the extent that such costs are not otherwise deducted by the taxpayer or attributable to any other property. This new paragraph is applicable to valuation costs incurred after 1984.

Subclause 22(5)

ITA
53(2)(c)(ii)(B) to (E)

Paragraph 53(2)(c) of the Act describes amounts that must be deducted in computing the adjusted cost base of a partnership interest. The amendments to clauses 53(2)(c)(ii)(B) to (E) are strictly consequential on the addition in subsection 248(1) of the definitions of "Canadian exploration and development expenses", "foreign exploration and development expenses", "Canadian exploration expense" and "Canadian development expense". The amendments simply delete unnecessary references to other sections of the Act where the terms are defined. These amendments are applicable to taxation years commencing after 1984.

Subclause 22(6)

ITA
53(2)(c)(ix)

New subparagraph 53(2)(c)(ix) is consequential on the introduction of new subsection 13(7.2) which requires a reduction of the capital cost of depreciable property of a partnership or trust where government assistance in respect of such property is received by a member of the partnership or a

beneficiary of the trust. Subparagraph 53(2)(c)(ix), applicable in respect of property acquired after May 9, 1985, requires a partner to reduce the adjusted cost base of his partnership interest where he has received such assistance.

Subclause 22(7)

ITA
53(2)(h)

Paragraph 53(2)(h) requires amounts to be deducted in computing the adjusted cost base of a capital interest in a trust or a unit of a unit trust. New subparagraph 53(2)(h)(v) requires the adjusted cost base to be reduced by amounts of government assistance received by the beneficiary in respect of an acquisition of depreciable property by the trust. This provision reflects the reduction of the capital cost of the property that the trust must make in respect of such assistance under new subsection 13(7.2). This amendment is applicable in respect of property acquired after May 9, 1985.

Subclauses 22(8) and (10)

ITA
53(2)(i)(ii) and (j)(ii)

Paragraphs 53(2)(i) and (j) of the Act set out certain deductions required to be made in determining the adjusted cost base of a capital interest in a non-resident trust or a unit of a non-resident unit trust. Subparagraphs 53(2)(i)(ii) and (j)(ii) which refer to resource properties acquired before 1972 are being repealed. These subparagraphs are no longer necessary as a consequence of the broadening of the definition of “Canadian resource property” in section 66 to include both pre-1972 and post-1971 Canadian resource properties. As a result of the broadened definition, resource properties acquired before 1972 are now picked up by the references to Canadian resource properties under subparagraphs 53(2)(i)(i) and (j)(i). These amendments are applicable to taxation years commencing after 1984.

Subclauses 22(9) and (11)

ITA
53(2)(i)(ix) and (j)(ix)

These subclauses provide further amendments to the cost base deductions in respect of capital interests and units of non-resident trusts. Under paragraphs 53(2)(i) and (j), deductions are required to be made where the capital interest or unit was acquired after 1971 from a non-resident and where, at the time of acquisition, 50% or more of the trust property consisted of Canadian resource properties, income interests in trusts resident in Canada, taxable Canadian property and timber resource properties. The amount to be deducted is the taxpayer's share of the amount by which the fair market value at that time of those types of properties exceeded the adjusted cost bases to the trust of those properties.

The amendments to subparagraphs 53(2)(i)(ix) and 53(2)(j)(ix) substitute references to “cost amount” for the existing references to “adjusted cost base” to provide a more appropriate reference to the tax cost of the various properties in respect of which the paragraphs apply. These amendments are applicable in computing the adjusted cost base of a capital interest or trust unit owned by a taxpayer after May 9, 1985.

Subclauses 22(12) to (18)

These set out the effective dates for the amendments to section 53 of the Act.

Principal Residence

Clause 23

Paragraph 54(g) of the Act provides a definition of “principal residence” for the purposes of the provisions of the Act relating to capital gains.

Subclause 23(1)

ITA
54(g)(i) and (ii)

In order to qualify as a taxpayer’s principal residence for a year, subparagraph 54(g)(i) requires that the residence be inhabited by the taxpayer or certain of his relatives. For this purpose, a child of the taxpayer is one who is wholly dependent on him for support. The amendment broadens the scope of the provision by dropping the requirement that the child be wholly dependent on the taxpayer; for the 1985 and subsequent taxation years, any dependent child of the taxpayer will qualify.

Subparagraph 54(g)(ii) allows a taxpayer to designate a property in respect of which he has made an election under subsection 45(2) as his principal residence for a taxation year. A subsection 45(2) election may be made where a taxpayer who has lived in a house rents it out for a period. Where a taxpayer does not live in his house before using it to earn income, he will be entitled to make an election under new subsection 45(3) provided that he occupies the house as his principal residence before selling it. This new provision accommodates the situation where an individual acquires a property which he ultimately uses as his residence but, before occupying it, rents it out. The amendment to subparagraph 54(g)(ii), applicable to the 1982 and subsequent taxation years, adds a reference to new subsection 45(3) so that a taxpayer may designate as his principal residence a property in respect of which he has made a subsection 45(3) election. The maximum number of years for which a taxpayer may so designate a property as his principal residence under subsection 45(2) or (3) is limited to four by subparagraph 54(g)(iv).

Subclause 23(2)

ITA
54(g)(v) and (vi)

The closing words of paragraph 54(g) of the Act following subparagraph 54(g)(iv) are being recast as subparagraph 54(g)(v) and a new subparagraph (vi) is being added. New subparagraph 54(g)(vi) treats a property designated as a principal residence by a spouse who is a beneficiary under a spouse trust as being a property designated by the trust. It also provides that property designated as a principal residence by a spouse trust will be treated as a property designated by the spouse. This amendment ensures that a spouse trust is included in the same family unit as the spouse for purposes of the rule limiting the principal residence exemption to one residence per family unit for any year. This amendment is applicable with respect to dispositions occurring after May 9, 1985.

Subclauses 23(3) to (5)

These set out the effective dates for the amendments to section 54 of the Act.

Resource Property Dispositions

Clause 24

Subclause 24(1)

ITA
59(1), (1.1) and (1.2)

Subsection 59(1) of the Act requires a taxpayer to include in computing his income for a taxation year the proceeds of disposition of a foreign resource property disposed of to the extent that the proceeds become receivable in the year. The proposed amendment to this subsection clarifies that the proceeds of disposition to be included in income will be net of any costs incurred by the taxpayer to dispose of the property. The amendment serves to confirm Revenue Canada's long-standing practice of recognizing these costs. This amendment is applicable to dispositions occurring in taxation years commencing after 1984.

Where a taxpayer disposes of a Canadian resource property, his proceeds of disposition must be deducted in computing his cumulative Canadian development expense (CCDE) or cumulative Canadian oil and gas property expense (CCOGPE). The rules requiring such a deduction are contained in subsections 59(1.1) and (1.2) of the Act, which include the amounts so described in the amounts to be deducted in computing the CCDE or CCOGPE. Subsections 59(1.1) and (1.2) are being repealed and the rules requiring the deduction are now included in the definitions of CCDE and CCOGPE in paragraphs 66.2(5)(b) and 66.4(5)(b) respectively. These changes are effective for property disposed of in taxation years commencing after 1984. These rules are also being amended to allow the proceeds of disposition that must be deducted in computing CCDE or CCOGPE to be reduced by any outlays or expenses that were made or incurred for the purpose of making the disposition and that were not otherwise deductible.

Subclause 24(2)

ITA
59(2) and (2.1)

Subsection 59(2) of the Act requires a taxpayer to include in computing his income for a taxation year any reserves claimed under subsection 64(1) for the immediately preceding taxation year in respect of a disposition of a resource property.

Paragraphs 59(2)(a) to (e) list the resource properties in respect of which subsection 59(2) applies. The reference to particular categories of resource property in subsection 59(2) is no longer necessary and is being repealed. The deletion of paragraphs 59(2)(a) to (e) is applicable for taxation years commencing after 1984.

Subsection 59(2.1) of the Act requires a taxpayer to include in computing his income for a taxation year any reserves claimed in the preceding year under

subsection 64(1.1) or (1.2) in respect of the disposition of a resource property. This subsection is repealed and the rule is incorporated into new subsection 59(2) for taxation years commencing after 1984.

Subclauses 24(3), (4), (5) and (7)

ITA
59(3), (3.1), (3.3) and (4)

Subsections 59(3), (3.1) and (4) of the Act provide transitional rules with respect to the disposition of resource properties acquired before 1972. Essentially these rules exclude from income a portion of the proceeds of disposition of certain pre-1972 resource properties in recognition of the fact that the costs of such properties were not deductible in computing income. The transitional rules were designed in such a way that the exemption is not available for any such property disposed of after 1980. The proposed amendment simply eliminates provisions which no longer serve any purpose. This change is applicable to dispositions occurring in taxation years commencing after 1984.

Subsection 59(3.3) provides for inclusions in income with respect to the recovery of resource expenses that earned depletion or a frontier exploration allowance. This recapture of depletion or frontier exploration allowance does not apply where the recovery of resource expenses results from a disposition of a Canadian resource property *or a property that would have been a Canadian resource property if it had been acquired by the taxpayer at the time the consideration was given*. The amendments to subsection 59(3.3) delete those words in italics since these words are no longer appropriate as a consequence of the amendment that deletes the words “acquired by him after 1971” from the definition of “Canadian resource property”. The amendments to subsection 59(3.3) are applicable to taxation years commencing after 1984.

Subclause 24(6)

ITA
59(3.4)(a) and (b)

Paragraphs 59(3.4)(a) and (b) of the Act define “successor corporation” and “second successor corporation” for the purposes of the special rules in subsections 59(3.3) relating to disposals of property the cost of which entitled the taxpayer or any predecessor to a depletion allowance. The amendments to these paragraphs, applicable to property acquisitions occurring after 1982, provide that a corporation does not become a successor corporation or second successor corporation by virtue of an acquisition of property on an amalgamation described in subsection 87(1.2) or on a winding-up to which the rules in subsection 88(1) apply. These amendments are consequential on the amendments which exclude such amalgamations and windings-up from the application of the successor and second successor rules for resource expenses.

The definitions of “successor corporation” and “second successor corporation” in paragraphs 59(3.4)(a) and (b) are also amended to reflect the broadening of the range of property transfers which qualify for taxpayer

elections to have the successor or second successor rules apply. Currently, one of the requirements of these rules is the acquisition by the successor or second successor corporation of all or substantially all of the property used in Canada by the transferor in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that, instead of the successor or second successor corporation having to acquire all or substantially all of the property used by the transferor in Canada in those businesses, the successor or second successor corporation will only have to acquire all or substantially all of the transferor's Canadian resource properties. These amendments to paragraphs 59(3.4)(a) and (b) are applicable to property acquisitions occurring in taxation years commencing after 1984.

Subclause 24(8)

This subclause amends the clauses in the Act listed in Schedule II by removing references to subsection 59(2.1), which is repealed.

Subclauses 24(9) to (11)

These set out the effective dates for the amendments to section 59 of the Act and the amendments listed in Schedule II.

Deductions in Computing Income

Clause 25

Section 60 of the Act provides for a variety of deductions in computing income, many of which relate to certain income inclusions required under section 56 of the Act.

Subclause 25(1)

ITA
60(n)(iv)

Paragraph 56(1)(m) of the Act provides that amounts received as training allowances under the *National Training Act* must be included in computing a taxpayer's income except to the extent that they were paid to the taxpayer on account of an allowance for his personal or living expenses while he was living away from home. Under the existing Act there is no deduction for the repayment by a taxpayer of any excess training allowances he had previously received. The amendment to paragraph 60(n) permits a deduction in a year for the repayment of any such allowance that was included in computing a taxpayer's income for the year or any preceding year under paragraph 56(1)(m). This amendment is applicable to the 1984 and subsequent taxation years.

Subclause 25(2)

ITA
60(p)

Paragraph 60(p) of the Act provides a deduction for an amount repaid on account of an overpayment of family allowances included in computing

income for a preceding year. This paragraph is amended to also allow a deduction for repayments of family allowances that were included in the taxpayer's income for the current year. This amendment is applicable to the 1984 and subsequent taxation years.

Subclause 25(3)

ITA
60(q)

Paragraph 60(q) of the Act provides a deduction for an amount repaid by a taxpayer on account of a scholarship, fellowship, bursary, research grant or prize for achievement which was included in computing his income for a previous year. Subparagraph 60(q)(i) is amended to allow a deduction for repayments of any such amount that was included in the taxpayer's income for the current year. This amendment is applicable to the 1984 and subsequent taxation years.

Subclause 25(4)

ITA
60(s)

New paragraph 60(s) of the Act provides a deduction for certain policy loan repayments to the extent that an amount was previously included in the taxpayer's income in respect of the receipt by him of a policy loan. This new paragraph replaces paragraph 20(1)(hh) and is designed to ensure that policy loan repayments are deductible against all sources of income, not just against income from a business or from property. This amendment is applicable to the 1982 and subsequent taxation years.

Subclauses 25(5) and (6)

These set out the effective dates for the amendments to section 60 of the Act.

Moving Expenses

Clause 26

ITA
62(1)(g)

Section 62 provides a deduction for moving expenses incurred in certain circumstances. However, a taxpayer cannot claim those moving expenses for which he is reimbursed unless the reimbursement is included in computing his income. In some cases, the payment by the employer of his employees' moving expenses will not take the form of a reimbursement of expenses but will simply represent an allowance for such expenses. Paragraph 62(1)(g) is amended, applicable to the 1985 and subsequent taxation years, to allow a deduction for moving expenses where the taxpayer receives an allowance, only to the extent that the allowance is included in computing the taxpayer's income.

Earned Depletion

Clause 27

ITA
65

Section 65 of the Act provides the authority for regulations to determine the amount of the deduction for earned depletion in respect of oil and gas production and mining. The processing of iron ore from the pellet stage to the

prime metal stage is treated as manufacturing and processing rather than as a resource activity. The amendments to subsections 65(1) and (2) clarify that earned depletion is not available in respect of the processing of iron ore beyond the pellet stage. In addition, the amendments recognize that the processing of tar sands beyond the crude oil stage will be treated as a processing activity in the same way as refining rather than a resource activity that will qualify for earned depletion. These changes simply improve the terminology and do not represent a change of substance. These amendments are applicable to the 1985 and subsequent taxation years.

Resource Exploration and Development Expenses

Clause 28

Section 66 of the Act provides among other things for the deduction of “Canadian exploration and development expenses”. This expression is defined in paragraph 66(15)(b) and is restricted to resource expenses incurred before May 7, 1974. (The deductions for exploration, development and other resource expenses incurred on or after that date are dealt with in sections 66.1 to 66.4 of the Act.)

Subclause 28(1)

ITA
66(3)

Subsection 66(3) of the Act sets out the deduction for Canadian exploration and development expenses that may be claimed by taxpayers other than principal-business corporations. Under the existing law, these taxpayers can write off such expenses to the extent of the greater of the amount of their Canadian resource income or 20% of the balance of such expenses that were not previously deductible. The amendment to subsection 66(3) removes these limitations on the deduction for the 1985 and subsequent taxation years. As a result, these expenses may be deducted without restriction by taxpayers other than principal-business corporations.

Subclause 28(2)

ITA
66(4)(b)(ii)(C)

Subsection 66(4) of the Act sets out the deduction that may be claimed for foreign exploration and development expenses. The amendment to subclause 66(4)(b)(ii)(C) is strictly consequential on the broadening of the definition of “foreign resource property” to include resource properties acquired before 1972 as well as those acquired after 1971. The amendment simply deletes the reference to “a property referred to in subsection 59(3)”, which referred to a foreign resource property acquired before 1972. This amendment is applicable to transactions occurring in taxation years commencing after 1984.

Subclauses 28(3) to (6)

ITA
66(6) and (7)

Subsections 66(6) and (7) of the Act provide the successor corporation rules for the deduction by a successor corporation or a second successor corpora-

tion of unclaimed Canadian exploration and development expenses incurred by a predecessor. The deduction by the successor corporation or second successor corporation of such expenses incurred by the predecessor is generally restricted to the income attributed to the properties acquired from the predecessor.

Under the existing law, the successor corporation rules apply where resource properties are acquired as a consequence of a winding-up or an amalgamation. An exception to this rule is provided under subsection 87(1.2) which allows an unrestricted carryover of Canadian exploration and development expenses of a parent corporation to a new corporation formed on an amalgamation of the parent with one or more of its subsidiary wholly-owned corporations. An amendment to subsection 87(1.2) expands this exception and extends the unrestricted carryover to the Canadian exploration and development expenses of a predecessor corporation on an amalgamation of a subsidiary wholly-owned corporation with its parent corporation and/or with one or more other direct or indirect wholly-owned subsidiaries of the parent.

A similar exception is introduced in new subsection 88(1.5) to allow the unrestricted carryover of Canadian exploration and development expenses to a parent corporation on the winding-up of a subsidiary in which it owns at least 90% of the shares.

One set of amendments to the opening words of subsections 66(6) and (7) is strictly consequential on the subsection 87(1.2) amendment and the introduction of new subsection 88(1.5). The amendments ensure that subsections 66(6) and (7) do not apply in respect of amalgamations or windings-up that qualify for the expanded carryover of expenses. These amendments are applicable to resource property acquisitions after 1982.

The other set of amendments to the opening words of subsections 66(6) and (7) broadens the range of property transfers which qualify for taxpayer elections to have the successor or second successor rules apply. Currently, one of the requirements of these rules is the acquisition by the successor or second successor corporation of all or substantially all of the property used by the transferor in Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that, instead of the successor or second successor corporation having to acquire all or substantially all of the property used by the transferor in Canada in those businesses, the successor or second successor corporation will only have to acquire all or substantially all of the transferor's Canadian resource properties. These amendments are applicable to property acquisitions occurring in taxation years commencing after 1984.

The amendments to subparagraphs 66(6)(b)(i) and (7)(b)(i) are strictly consequential on the broadening of the definition of "Canadian resource property" to include resource properties acquired before 1972 as well as

those acquired after 1971. The amendments simply replace the references to “property described in any of subparagraphs (15)(c)(i) to (vii)” with the term “Canadian resource property”. These amendments are applicable to transactions occurring in taxation years commencing after 1984.

Subclauses 28(7) and (8)

ITA
66(8)(e) and (9)(e)

Subsections 66(8) and (9) of the Act provide successor corporation rules for the deduction by a successor corporation or a second successor corporation of unclaimed foreign exploration and development expenses incurred by a predecessor. The amendments to paragraphs 66(8)(e) and (9)(e) are consequential on the broadening of the definitions of “Canadian resource property” and “foreign resource property” to include resource properties acquired before 1972. The amendments simply replace the references in those paragraphs to resource properties with references to “Canadian resource property” and “foreign resource property”.

The amendments to paragraphs 66(8)(e) and (9)(e) also broaden the range of property transfers which qualify for taxpayer elections to have the successor or second successor rules apply. Currently, one of the requirements of these rules is the acquisition by the successor or second successor corporation of all or substantially all of the property used by the transferor outside Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is changed so that instead of the successor or second successor corporation having to acquire all or substantially all of the property used by the transferor outside Canada in those businesses, the successor or second successor corporation will only have to acquire all or substantially all of the transferor’s foreign resource properties.

The amendments to paragraphs 66(8)(e) and (9)(e) are applicable to transactions occurring in taxation years commencing after 1984.

Subclauses 28(9) and (10)

ITA
66(11.1)(d) and (f)

Subsection 66(11.1) of the Act provides for the application of the successor corporation rules where control of a corporation changes or where a corporation ceases to be tax-exempt.

The amendment to paragraph 66(11.1)(d) reflects the broadening of the range of property transfers which qualify for taxpayer elections to have the successor corporation rules apply. Currently, paragraph 66(11.1)(d) treats the corporation as having acquired all or substantially all of the property used by it in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement in the successor rules is being changed so that

instead of a successor corporation having to acquire all or substantially all of the property used by its predecessor in those businesses, the successor corporation will only have to acquire all or substantially all of the predecessor's Canadian resource properties in the case of Canadian resource expenses, and foreign resource properties in the case of foreign resource expenses. In order to conform with the new requirement of the successor rules, the amended paragraph 66(11.1)(d) treats the corporation as having acquired all or substantially all of its Canadian resource properties and foreign resource properties.

The amendment to subparagraph 66(11.1)(f)(i) is strictly consequential on the amendments which broaden the definitions of "Canadian resource property" and "foreign resource property" to include resource properties acquired before 1972 as well as those acquired after 1971. The amendment replaces the reference to "property described in any of paragraphs 59(2)(a) to (e)" with "Canadian resource property or foreign resource property".

The amendments to subsection 66(11.1) are applicable to taxation years commencing after 1984.

Subclause 28(11)

ITA
66(11.2)

If a corporation to which subsection 66(11.1) applies later transfers all or substantially all of its resource business assets to another corporation (for example, on an amalgamation) so that the successor rules apply, subsection 66(11.2) provides that the corporation acquiring those assets will be treated as a successor corporation, rather than as a second successor corporation, in respect of the expenses of the original corporation to which subsection 66(11.1) applies. Thus, the restrictions that applied to the deduction of such expenses by the original corporation will continue to apply to the deduction of such expenses by the successor corporation.

One amendment to this subsection, applicable to property acquisitions occurring after 1982, is consequential on the change to the successor rules that provides that a corporation does not become a successor corporation or second successor corporation by virtue of an acquisition of property on an amalgamation described in subsection 87(1.2) or on a winding-up to which the rules in subsection 88(1) apply. The amendment to subsection 66(11.2) excludes such amalgamations and windings-up from the application of the subsection.

The amendment to subsection 66(11.2) makes the subsection apply where a corporation to which subsection 66(11.1) applies later transfers all or substantially all of its Canadian resource properties to another corporation, rather than all or substantially all of its resource business assets, as a consequence of similar amendments being made to the successor corporation rules. This amendment is applicable to property acquisitions occurring in taxation years commencing after 1984.

Subclause 28(12)

ITA
66(12.1)

Subsection 66(12.1) of the Act ensures that any consideration received by a taxpayer for property or services, the cost of which was originally a Canadian exploration and development expense, a Canadian exploration expense or Canadian development expense of the taxpayer, is deducted from either his cumulative Canadian exploration expense or cumulative Canadian development expense account. The amendment to the subsection is strictly consequential on the broadening of the definition of “Canadian resource property” to include resource properties acquired before 1972 as well as those acquired after 1971. The amendment simply replaces the reference to “property referred to in paragraph 59(2)(a), (c) or (d)” with the term “Canadian resource property”. This amendment is applicable to taxation years commencing after 1984.

Subclause 28(13)

ITA
66(12.4)

Subsection 66(12.4) of the Act provides special rules that apply where a taxpayer receives an amount which represents a recovery by him of foreign exploration and development expenses. The subsection does not apply where the amount received by the taxpayer is for the disposition by him of a foreign resource property or a property that would have been a foreign resource property if it had been acquired after 1971. The amendment to this subsection, which simply drops the reference to “a property that would have been a foreign resource property if it had been acquired after 1971”, is strictly consequential on the broadening of the definition of “foreign resource property” to include properties acquired before 1972 as well as those acquired after 1971. This amendment is applicable to transactions occurring in taxation years commencing after 1984.

Subclause 28(14)

ITA
66(15)(b)

Paragraph 66(15)(b) defines “Canadian exploration and development expenses”. The amendment to the paragraph deletes the reference to resource properties acquired before 1972 from subparagraph 66(15)(b)(v.1). This reference is no longer necessary in view of the broadening of the definition of “Canadian resource property” in paragraph 66(15)(c) to include resource properties regardless of the date they were acquired. This amendment is applicable to taxation years commencing after 1984.

Subclause 28(15) and (16)

ITA
66(15)(c)

Paragraph 66(15)(c) of the Act defines “Canadian resource property”. Under the existing law, “Canadian resource property” does not include a property acquired before 1972. Except for a transitional income exemption rule that expired at the end of 1980, the disposition of a resource property acquired before 1972 is treated in the same way as a disposition of a Canadian resource property. Since these transitional rules have expired and

are being repealed, the distinction between resource properties based on the date they were acquired is no longer necessary in the definition of Canadian resource property. An amendment to paragraph 66(15)(c) eliminates this distinction. This amendment is applicable to taxation years commencing after 1984.

A further amendment clarifies that any right to or interest in a resource property held by a taxpayer indirectly by virtue of being a beneficiary of a trust will not be treated as a resource property of the taxpayer whereas the interest of a trust in a Canadian resource property will be treated as a Canadian resource property of the trust. This amendment is applicable to transactions occurring in taxation years commencing after 1984.

Subclause 28(17)

ITA
66(15)(e)(v)

Subparagraph 66(15)(e)(v) of the Act includes in the definition of “foreign exploration and development expenses” any annual payment for the preservation of a foreign resource property or a property that would have been a foreign resource property if it had been acquired after 1971. The amendment to this subparagraph, which simply drops the reference to “property that would have been a foreign resource property if it had been acquired by the taxpayer after 1971”, is strictly consequential on the broadening of the definition of “foreign resource property” to include properties acquired before 1972 as well as those acquired after 1971. This amendment is applicable to transactions occurring in taxation years commencing after 1984.

Subclauses 28(18) to (21)

These set out the effective dates for the amendments to section 66 of the Act.

Canadian Exploration
Expense

Clause 29

Section 66.1 of the Act provides the rules relating to the deduction of “Canadian exploration expense” as defined in paragraph 66.1(6)(a).

Subclause 29(1)

ITA
66.1(3)

Subsection 66.1(3) of the Act allows a taxpayer other than a principal business corporation to deduct the unclaimed Canadian exploration expenses incurred after May 25, 1976 in full against any income. In addition, any unclaimed Canadian exploration expenses incurred before May 26, 1976 may be deducted to the extent of the greater of the taxpayer’s Canadian resource income and 30% of the unclaimed balance of his pre-May 26, 1976 expenses. This reflects the change introduced in 1976 which permitted such taxpayers to deduct new Canadian exploration expenses without any restriction while continuing the restriction that applied for expenses incurred before May 26, 1976. The amendment to the subsection drops the restriction with respect to

Canadian exploration expenses incurred before May 26, 1976. As a result, Canadian exploration expenses can be deducted without restriction irrespective of when they were incurred. This amendment is applicable to the 1985 and subsequent taxation years.

Subclause 29(2)

ITA
66.1(4)

Subsection 66.1(4) of the Act provides the successor corporation rules for the deduction by a corporation of unclaimed Canadian exploration expenses incurred by a predecessor from which it acquired all or substantially all the predecessor's resource assets. The deduction by the successor corporation of such expenses incurred by the predecessor is generally restricted to the income attributed to the resource properties acquired from the predecessor.

Under the existing law, the successor corporation rules apply when resource properties are acquired from a predecessor as a consequence of a winding-up or an amalgamation of a predecessor. An exception to this rule is provided under subsection 87(1.2) which allows an unrestricted carryover of Canadian exploration expenses of a parent corporation to a new corporation formed on an amalgamation of the parent with one or more of its subsidiary wholly-owned corporations. An amendment to subsection 87(1.2) expands this exception and extends the unrestricted carryover to the Canadian exploration expenses of a subsidiary wholly-owned corporation on an amalgamation with its parent corporation and/or with one or more other direct or indirect wholly-owned subsidiaries of the parent.

A similar exception is introduced in new subsection 88(1.5) to allow an unrestricted carryover of Canadian exploration expenses to a parent corporation on the winding-up of a subsidiary in which it owns at least 90% of the shares.

One of the amendments to the opening words of subsection 66.1(4) is strictly consequential on the broadening of subsection 87(1.2) and on the addition of new subsection 88(1.5). The amendment ensures that subsection 66.1(4) does not apply to amalgamations or windings-up that qualify for the expanded carryover of expenses. This amendment is applicable to acquisitions of property occurring after 1982.

The other amendment to the opening words of subsection 66.1(4) broadens the range of property transfers which qualify for taxpayer elections to have the successor corporation rules apply. Currently, one of the requirements of these rules is the acquisition by the successor corporation of all or substantially all of the property used by its predecessor in Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that instead of the successor corporation having to acquire all or substantially all of the property used by the

predecessor in Canada in those businesses, the successor corporation will only have to acquire all or substantially all of the predecessor's Canadian resource properties. This amendment is applicable to property acquisitions occurring in taxation years commencing after 1984.

Subclause 29(3)

ITA
66.1(4)(b)(i)

Subsection 66.1(4) of the Act permits a successor corporation to deduct Canadian exploration expenses of a predecessor to the extent that the successor has income from resource properties acquired from the predecessor. Where the successor sells a resource property acquired from a predecessor, the proceeds are deducted in determining the various resource expense accounts of the successor corporation and any resulting negative balance is required to be included in the successor's income under paragraph 59(3.2)(c) of the Act.

The amendment to subparagraph 66.1(4)(b)(i) ensures that a successor corporation may offset a predecessor's unclaimed Canadian exploration expense against an inclusion under paragraph 59(3.2)(c) of the Act to the extent the inclusion is reasonably attributable to the disposition, either in the year of the inclusion or a preceding taxation year, of a resource property acquired from the predecessor. The amendment also ensures that this offset may be made only to the extent that the inclusion has not already been offset by second successor Canadian exploration expenses under subparagraph 66.1(5)(b)(i) of the Act. This amendment is applicable to taxation years commencing after 1984.

Subclauses 29(4) and (5)

ITA
66.1(5)

Subsection 66.1(5) of the Act provides the second successor corporation rules which allow Canadian exploration expenses of a taxpayer (the "predecessor") to be deducted by a corporation (the "second successor corporation") which acquires from another corporation (the "successor corporation") all or substantially all of the successor corporation's resource assets where the successor corporation has previously acquired all or substantially all the resource assets of the predecessor. These expenses are generally deductible by the second successor corporation only against the income attributed to the resource properties that were acquired by the successor corporation from the predecessor.

The amendments to the rules relating to second successor corporations are the same as those made in subsection 66.1(4) relating to successor corporations. One of the amendments to the opening words of subsection 66.1(5) is strictly consequential on the changes to subsection 87(1.2) and the addition of new subsection 88(1.5). The amendment simply ensures that the rules relating to second successor corporations do not apply to an amalgamation or winding-up which qualifies for the expanded carryover of expenses provided under those subsections. This amendment is applicable to acquisitions of property occurring after 1982.

The other amendment to the opening words of subsection 66.1(5) broadens the range of property transfers which qualify for taxpayer elections to have the second successor corporation rules apply. Currently, one of the requirements of these rules is the acquisition by the second successor corporation of all or substantially all of the property used by the successor corporation in Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that instead of the second successor corporation having to acquire all or substantially all of the property used by the successor corporation in Canada in those businesses, the second successor corporation will only have to acquire all or substantially all of the successor corporation's Canadian resource properties. This amendment is applicable to property acquisitions occurring in taxation years commencing after 1984.

The amendment to subparagraph 66.1(5)(b)(i) is similar to that made to subparagraph 66.1(4)(b)(i) and clarifies that a second successor corporation may offset the predecessor Canadian exploration expense acquired from a successor corporation against any income inclusion under paragraph 59(3.2)(c) of the Act to the extent that the inclusion is reasonably attributable to the disposition, either in the year of the inclusion or a preceding taxation year, of a predecessor resource property acquired from a successor corporation. This amendment is applicable to taxation years commencing after 1984.

Subclauses 29(6) and (7)

ITA
66.1(6)(a)(iii)

Paragraph 66.1(6)(a) of the Act provides the definition of "Canadian exploration expense". Subparagraph (iii) thereof describes the mineral exploration expenses that are included in that definition. This provision refers to various types of exploration expenses relating to a mineral resource without reference to whether access to the minerals is by way of a mine or a well. A problem arises as a result of the definition of "mineral resource" in section 248 which includes tar sands deposits. The amendment to this subparagraph ensures that the subparagraph applies only to mining exploration and excludes expenses relating to an oil or gas well. The other amendment to the subparagraph simply deletes the italicized words in the expression "a mine, *whether or not owned by the taxpayer*" as these words are redundant. The amendments to subparagraph 66.1(6)(a)(iii) are applicable to expenses incurred after May 9, 1985.

Subclause 29(8)

ITA
66.1(6)(a)(iii.1)

Mining development expenses incurred prior to production from a mineral resource qualify as Canadian exploration expenses under subparagraph 66.1(6)(a)(iii.1) of the Act. The reference to a "mineral resource" in that subparagraph is being changed to a reference to a "new mine". As a result of

this amendment, mining development expenses incurred in bringing a new mine in a mineral resource into production may qualify as Canadian exploration expenses even though there may previously have been production from the mineral resource by another mine. This amendment is applicable to expenses incurred after May 9, 1985.

Subclauses 29(9) to (12)

These set out the effective dates for the amendments to section 66.1 of the Act.

Canadian Development Expense

Clause 30

Section 66.2 of the Act provides the rules relating to the deduction of "Canadian development expense" as defined in paragraph 66.2(5)(a).

Subclause 30(1)

ITA 66.2(3)

Subsection 66.2(3) of the Act provides the successor corporation rules for the deduction by a corporation of unclaimed Canadian development expenses incurred by a predecessor from which it acquired all or substantially all the predecessor's resource assets. The deduction by the successor corporation of such expenses incurred by the predecessor is generally restricted to the income attributed to the resource properties acquired from the predecessor.

Under the existing law, the successor corporation rules apply where resource properties are acquired from a predecessor as a consequence of a winding-up or an amalgamation of a predecessor. An exception to this rule is provided under subsection 87(1.2) to allow an unrestricted carryover of Canadian development expenses of a parent corporation to a new corporation formed on an amalgamation of the parent with one or more of its subsidiary wholly-owned corporations. An amendment to subsection 87(1.2) expands that exception and extends the unrestricted carryover to the Canadian development expenses of a subsidiary wholly-owned corporation on an amalgamation with its parent corporation and/or with one or more other direct or indirect wholly-owned subsidiaries of the parent.

A similar exception is introduced in new subsection 88(1.5) to allow an unrestricted carryover of Canadian development expenses to a parent corporation on the winding-up of a subsidiary in which it owns at least 90% of the shares.

One of the amendments to the opening words of subsection 66.2(3) is strictly consequential on the amendment to subsection 87(1.2) and the addition of new subsection 88(1.5). The amendment ensures that subsection 66.2(3) does not apply to amalgamations or windings-up that qualify for the expanded carryover of expenses. This amendment is applicable to acquisitions of property occurring after 1982.

The other amendment to the opening words of subsection 66.2(3) broadens the range of property transfers which qualify for taxpayer elections to have the successor corporation rules apply. Currently, one of the requirements of these rules is the acquisition by the successor corporation of all or substantially all of the property used by its predecessor in Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that instead of the successor corporation having to acquire all or substantially all of the property used by its predecessor in Canada in those businesses, the successor corporation will only have to acquire all or substantially all of the predecessor's Canadian resource properties. This amendment is applicable to property acquisitions occurring in taxation years commencing after 1984.

Subclause 30(2)

ITA
66.2(3)(a)(ii)

Subsection 66.2(3) of the Act determines the amount of the Canadian development expense of a predecessor that a successor corporation may deduct in computing its income. The amendment to subparagraph 66.2(3)(a)(ii) simply removes the references to subsections 59(1.1) and (3.1) as a consequence of the repeal of those subsections. This amendment applies to dispositions occurring in taxation years commencing after 1984.

Subclause 30(3)

ITA
66.2(4)

Subsection 66.2(4) of the Act provides the second successor corporation rules which allow Canadian development expenses of a taxpayer (the "predecessor") to be deducted by a corporation (the "second successor corporation") which acquires from another corporation (the "successor corporation") all or substantially all the successor corporation's resource assets where the successor corporation has previously acquired all or substantially all the resource assets of the predecessor. These expenses are generally deductible by the second successor corporation only against the income attributed to the resource properties that were acquired by the successor corporation from the predecessor.

The amendments to the rules relating to second successor corporations are the same as those made in subsection 66.2(3) relating to successor corporations. One of the amendments to the opening words of subsection 66.2(4) is strictly consequential on the changes to subsection 87(1.2) and the addition of new subsection 88(1.5). The amendment simply ensures that the rules relating to second successor corporations do not apply to an amalgamation or winding-up which qualifies for the expanded carryover of expenses provided under those subsections. This amendment is applicable to acquisitions of property occurring after 1982.

The other amendment to the opening words of subsection 66.2(4) broadens the range of property transfers which qualify for taxpayer elections to have

the second successor corporation rules apply. Currently, one of the requirements of these rules is the acquisition by the second successor corporation of all or substantially all of the property used by the successor corporation in Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that instead of the second successor corporation having to acquire all or substantially all of the property used by the successor corporation in Canada in those businesses, the second successor corporation will only have to acquire all or substantially all of the successor corporation's Canadian resource properties. This amendment is applicable to property acquisitions occurring in taxation years commencing after 1984.

Subclauses 30(4) and (5)

ITA
66.2(4)(a)(i) and (ii)

Subsection 66.2(4) of the Act permits a second successor corporation to deduct its second successor Canadian development expense pool against its income earned from the properties acquired from the first successor. The amount described in subparagraph 66.2(4)(a)(i) is the balance of undeducted Canadian development expenses taken over from the first successor corporation minus any amounts claimed by the second successor itself. Subparagraph 66.2(4)(a)(i) produces unintended results in that it fails to take into account certain credits to the expense pool. The amendment to that subparagraph provides that the undeducted Canadian development expenses in respect of a second successor corporation will not include amounts deducted in computing the first successor Canadian development expense pool under paragraph 66.2(3)(a)(ii) of the Act. The amendment to subparagraph 66.2(4)(a)(ii) is strictly consequential on the repeal of subsections 59(1.1) and (3.1) and the amendment to clause 66.2(5)(a)(v). The amendment to subparagraph 66.2(4)(a)(i) is applicable to the 1985 and subsequent taxation years and the amendment to subparagraph 66.2(4)(a)(ii) is applicable to taxation years commencing after 1984.

Subclause 30(6)

ITA
66.2(5)(a)(i)

Paragraph 66.2(5)(a) of the Act defines "Canadian development expense". The present definition does not specifically include expenses incurred with respect to a well for the purposes of monitoring fluid levels or pressure changes, although it does include the cost of drilling other wells such as injection wells to assist in the production of oil or gas by means of secondary or tertiary recovery processes. New clause 66.2(5)(a)(i)(E) extends this definition to include expenses incurred in drilling a monitoring well or in converting an existing well into a monitoring well. This amendment is applicable to expenses incurred after 1981.

Subclause 30(7)

ITA
66.2(5)(a)(iii)

Paragraph 66.2(5)(a) of the Act defines “Canadian development expense”. The amendment to subparagraph (iii) thereof clarifies that the cost of an interest in or a right to a resource property that a taxpayer has acquired indirectly as a beneficiary of a trust is not to be included as a Canadian development expense. This amendment is applicable to dispositions occurring in taxation years commencing after 1984.

Subclause 30(8)

ITA
66.2(5)(b)(v)

Paragraph 66.2(5)(b) of the Act defines the “cumulative Canadian development expense” or CCDE account of a taxpayer. Subparagraph (v) thereof requires the taxpayer to credit his CCDE account with the proceeds of disposition of property determined under subsection 59(1.1) or paragraph 59(3.1)(a) of the Act. This amendment to the definition of CCDE simply incorporates provisions that were reflected in subsections 59(1.1) and (3.1) which are being repealed. A further amendment to the definition allows a deduction in calculating the proceeds of disposition of a resource property for any selling or other expenses related to the disposal. These amendments are applicable to dispositions occurring in taxation years commencing after 1984.

Subclause 30(9)

ITA
66.2(7)

Subsection 66.2(7) of the Act requires a non-resident member of a partnership to include in his resource accounts his share of any proceeds of disposition deemed to be received by the partnership in respect of the taxation year that is deemed to have ended by virtue of paragraph 115(4)(b). The amendment to this subsection simply changes certain references as a consequence of the repeal of subsection 59(1.1). This amendment is applicable to dispositions occurring in taxation years commencing after 1984.

Subclauses 30(10) to (14)

These set out the effective dates for the amendments to section 66.2 of the Act.

**Canadian Oil and Gas
Property Expense**

Clause 31

Section 66.4 of the Act provides the rules relating to the deduction of “Canadian oil and gas property expense” as defined in paragraph 66.4(5)(a).

Subclause 31(1)

ITA
66.4(3)

Subsection 66.4(3) of the Act provides the successor corporation rules for the deduction by a corporation of unclaimed Canadian oil and gas property expenses incurred by a predecessor from which it acquired all or substantially

all the predecessor's resource assets. The deduction by the successor corporation of such expenses incurred by the predecessor is generally restricted to the income attributed to resource properties acquired from the predecessor.

Under the existing law, the successor corporation rules apply when resource properties are acquired from a predecessor as a consequence of a winding-up or an amalgamation of a predecessor corporation. An exception to this rule is provided under subsection 87(1.2) which allows an unrestricted carryover of Canadian oil and gas property expenses of a parent corporation to a new corporation formed on an amalgamation of the parent with one or more of its subsidiary wholly-owned corporations. An amendment to subsection 87(1.2) expands this exception and extends the unrestricted carryover to the Canadian oil and gas property expenses of a subsidiary wholly-owned corporation on an amalgamation with its parent corporation and/or with one or more other direct or indirect wholly-owned subsidiaries of the parent.

A similar exception is introduced in new subsection 88(1.5) to allow an unrestricted carryover of Canadian oil and gas property expenses to a parent corporation on the winding-up of a subsidiary in which it owns at least 90% of the shares.

One of the amendments to the opening words of subsection 66.4(3) is strictly consequential on the amendment to subsection 87(1.2) and the addition of new subsection 88(1.5). The amendment ensures that subsection 66.4(3) does not apply to amalgamations or windings-up which qualify for the expanded carryover of expenses. This amendment is applicable to acquisitions occurring after 1982.

The other amendment to the opening words of subsection 66.4(3) broadens the range of property transfers which qualify for taxpayer elections to have the successor corporation rules apply. Currently, one of the requirements of these rules is the acquisition by the successor corporation of all or substantially all of the property used by its predecessor in Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that instead of the successor corporation having to acquire all or substantially all of the property used by the predecessor in Canada in those businesses, the successor corporation will only have to acquire all or substantially all of the predecessor's Canadian resource properties. This amendment is applicable to property acquisitions occurring in taxation years commencing after 1984.

Subclause 31(2)

Subsection 66.4(3) of the Act determines the amount of the Canadian oil and gas property expense of a predecessor that a successor corporation may deduct in computing its income. The amendment to subparagraph

ITA
66.4(3)(a)(ii)

66.4(3)(a)(ii) removes a reference to subsection 59(1.2) and is strictly consequential on the repeal of that subsection. This amendment is applicable to taxation years commencing after 1984.

Subclause 31(3)

ITA
66.4(4)

Subsection 66.4(4) of the Act contains second successor corporation rules which allow Canadian oil and gas property expenses of a taxpayer (the “predecessor”) to be deducted by a corporation (the “second successor corporation”) which acquires from another corporation (the “successor corporation”) all or substantially all the successor corporation’s resource assets where the successor corporation has previously acquired all or substantially all the resource assets of the predecessor. These expenses are generally deductible by the second successor corporation only against the income attributed to the resource properties that were acquired by the successor corporation from the predecessor.

The amendments to the rules relating to second successor corporations are the same as those made in subsection 66.4(3) relating to successor corporations. One of the amendments to the opening words of subsection 66.4(4) is strictly consequential on the changes to subsection 87(1.2) and the addition of new subsection 88(1.5). The amendment simply ensures that the rules relating to second successor corporations do not apply to an amalgamation or winding-up which qualifies for the expanded carryover of expenses provided under those subsections. This amendment is applicable to acquisitions of property occurring after 1982.

The other amendment to the opening words of subsections 66.4(4) broadens the range of property transfers which qualify for taxpayer elections to have the second successor corporation rules apply. Currently, one of the requirements of these rules is the acquisition by the second successor corporation of all or substantially all of the property used by the successor corporation in Canada in businesses described in subparagraphs 66(15)(h)(i) to (vii) of the Act. Those businesses include production, processing and marketing of oil and gas, mining, processing mineral ore and metals and operating an oil or gas pipeline. This requirement is being changed so that instead of the second successor corporation having to acquire all or substantially all of the property used by the successor corporation in Canada in those businesses, the second successor corporation will only have to acquire all or substantially all of the successor corporation’s Canadian resource properties. This amendment is applicable to property acquisitions occurring in taxation years commencing after 1984.

Subclauses 31(4) and (5)

ITA
66.4(4)(a)(i) and (ii)

Subsection 66.4(4) of the Act permits a second successor corporation to deduct its second successor Canadian oil and gas property expense pool against its income earned from the properties of the predecessor acquired

from the first successor. The amount described in subparagraph 66.2(4)(a)(i) is the balance of undeducted Canadian oil and gas property expenses taken over from the first successor corporation minus any amounts claimed by the second successor itself. Subparagraph 66.4(4)(a)(i) produces unintended results in that it fails to take into account certain credits to the expense pool. The amendment to that subparagraph provides that the undeducted Canadian oil and gas property expenses in respect of a second successor corporation will not include amounts deducted in computing the first successor Canadian oil and gas property expense pool under paragraph 66.4(3)(a)(ii) of the Act. The amendment to subparagraph 66.4(4)(a)(ii) is strictly consequential on the repeal of subsection 59(1.2) and incorporates the rules of that subsection. The amendment to subparagraph 66.4(4)(a)(i) is applicable to the 1985 and subsequent taxation years and the amendment to subparagraph 66.4(4)(a)(ii) is applicable to taxation years commencing after 1984.

Subclause 31(6)

ITA
66.4(5)(a)(i)

Paragraph 66.4(5)(a) of the Act defines “Canadian oil and gas property expense”. The amendment to subparagraph (i) clarifies that the cost of an interest in or a right to a resource property that a taxpayer has acquired indirectly as a beneficiary of a trust does not qualify as a Canadian oil or gas property expense. This amendment is applicable to taxation years commencing after 1984.

Subclause 31(7)

ITA
66.4(5)(b)(v)

Paragraph 66.4(5)(b) of the Act defines the “cumulative Canadian oil and gas property expense” account of a taxpayer. Subparagraph (v) requires the taxpayer to credit this account with the proceeds of disposition of property determined under subsection 59(1.2) of the Act. This subsection is being repealed and the amendment to subparagraph 66.4(5)(b)(v) simply incorporates the wording of paragraph 59(1.2) into subparagraph 66.4(5)(b)(v). A further amendment allows a deduction in calculating the proceeds of disposition of a resource property for any selling or other expenses related to the disposal. These amendments are applicable to dispositions occurring in taxation years commencing after 1984.

Subclause 31(8)

ITA
66.4(5)(c)

Subsection 66.4(5) of the Act defines expressions used in sections 66, 66.1, 66.2 and 66.4 of the Act. New paragraph 66.4(5)(c) adopts the meaning of the terms “disposition” and “proceeds of disposition” as defined in section 54 to ensure that these meanings apply for the purposes of the amendments to clauses 66.2(5)(b)(v) and 66.4(5)(b)(v). This amendment is applicable to taxation years commencing after 1984.

Subclauses 31(9) to (12)

These set out the effective dates for the amendments to section 66.4 of the Act.

Inadequate Consideration

Clause 32

Subclause 32(1)

ITA
69(2) and (3)

Subsection 69(2) of the Act is an anti-avoidance rule designed to prevent the overstatement of deductions in computing income. The subsection applies where a taxpayer carrying on business in Canada pays or agrees to pay a non-resident person with whom he was not dealing at arm's length more than a reasonable amount as a rent or royalty, as a fee for services performed or as the price for property acquired. For the purpose of computing the taxpayer's income from the business, the subsection treats the reasonable amount as the amount paid or payable. The amendment to the subsection deletes the references to a business to ensure that the subsection will also apply for the purpose of computing a taxpayer's income from property. This amendment is applicable with respect to transactions or events occurring after May 6, 1985.

Subsection 69(3) of the Act is an anti-avoidance rule designed to prevent the understatement of revenues in computing income. The subsection applies where a non-resident person pays or agrees to pay a taxpayer carrying on business in Canada with whom he was not dealing at arm's length an amount less than a reasonable amount as a rent or royalty, as a fee for services performed or as consideration for property acquired. For the purpose of computing the taxpayer's income from the business, the subsection treats the reasonable amount as the amount that the taxpayer received.

There are two amendments to subsection 69(3). One amendment deletes the references to a business so the subsection will also apply for the purpose of computing a taxpayer's income from property. The other amendment treats a reasonable amount as having been received where no amount was paid or agreed to be paid by the non-resident in respect of the property or services. The amendments to subsection 69(3) are applicable with respect to transactions or events occurring after May 9, 1985.

Subclause 32(2)

ITA
69(8)

A taxpayer who disposes of his production from an oil or gas well or mineral resource in Canada to the Crown at less than fair market value is treated as having disposed of that production for its fair market value. Subsection 69(8) of the Act sets out a rule for determining fair market value for that purpose. The amendment to the subsection reduces what would otherwise be the deemed fair market value of the resource production by any amount in respect of the production that was paid or became payable to Her Majesty for the use and benefit of an Indian band. A reduction of the fair market

value in this circumstance is consistent with the deduction from income provided by section 1211 of the *Income Tax Regulations* for royalties paid to Indian bands. This amendment is applicable to the 1978 and subsequent taxation years.

Subclause 32(3)

ITA
69(9)

Where a producer acquires any production from his oil or gas well or mineral resource from the Crown for an amount in excess of its fair market value, subsection 69(7) of the Act treats the producer as having acquired such production at its fair market value. The production so acquired is the production originally disposed of to the Crown by the producer. Subsection 69(9) treats the purchase price paid by the Crown to the producer as the fair market value. The amendment to subsection 69(9) provides for an increase in the fair market value of that production by any amount in respect of the production that was paid or payable to Her Majesty for the use and benefit of an Indian band. This change is consistent with the deductibility of royalties paid to Indian bands provided for by section 1211 of the *Income Tax Regulations*. This amendment is applicable to the 1978 and subsequent taxation years.

Subclauses 32(4) and (5)

These set out the effective dates for the amendments to section 69 of the Act.

Death of a Taxpayer

Clause 33

Section 70 of the Act sets out the general rules that apply for the purpose of calculating the income of an individual for the year in which he dies.

Subclause 33(1)

ITA
70(2)

Where a taxpayer dies, his legal representative may file a separate return of income covering certain "rights or things" of the taxpayer at the time of his death. Under the existing law, the only deductions from income permitted in determining taxable income on that separate return are those deductions allowed for personal exemptions under section 109 of the Act. However, on an administrative basis, certain other deductions are permitted in computing taxable income for purposes of the separate return. This amendment to subsection 70(2) expressly allows the deduction in the separate return for such things as medical expenses, charitable donations and the \$1,000 investment and pension income exclusions under sections 110 to 110.2 of the Act. Similar amendments are made for the purposes of the separate returns provided for in subsections 104(23) and 150(4). New section 114.2 provides that these deductions, other than for personal exemptions, may be claimed on a separate return only to the extent that they are not otherwise claimed in another return of the deceased's income for the year. This amendment is applicable to the 1985 and subsequent taxation years.

Subclause 33(2)

ITA
70(3.1)

Under subsection 70(2) of the Act, the value of certain “rights or things” owned by a taxpayer at his death is required to be included in his income for his final taxation year, unless the right or thing is transferred to a beneficiary within a specified time after his death and included in the beneficiary’s income. Subsection 70(3.1) excludes certain “rights or things” from this treatment. The amendment to this subsection is strictly consequential on the broadening of the definition of “Canadian resource property” in paragraph 66(15)(c) to include resource properties acquired before 1972 and is applicable to taxation years commencing after 1984.

Subclause 33(3)

ITA
70(5)(c), (d) and (e)

Paragraphs 70(5)(c), (d) and (e) of the Act set out rules that apply to a taxpayer who acquires capital property of another taxpayer “by virtue of” the other taxpayer’s death. The words “by virtue of” in these paragraphs are being replaced by the words “as a consequence of” in order to achieve a more consistent and clear terminology in the tax rules that apply on the death of a taxpayer. The meaning of property transfers “as a consequence of” the death of a taxpayer is expanded by new subsection 248(8) to include transfers under the terms of a will and transfers as a result of a disclaimer, release or surrender of a beneficiary under the taxpayer’s will. These amendments to subsection 70(5) are applicable to transfers, distributions and acquisitions occurring after 1981.

Subclause 33(4)

ITA
70(5.1)

Subsection 70(5.1) of the Act sets out rules that apply where a taxpayer has died and eligible capital property of the taxpayer has been acquired by a person by virtue of the death. The words “by virtue of” in this subsection are being replaced by the words “as a consequence of” in order to achieve a more consistent and clear terminology in the tax rules that apply on the death of a taxpayer. The meaning of property transfers “as a consequence of” the death of a taxpayer is expanded by new subsection 248(8) to include transfers under the terms of a will and transfers as a result of a disclaimer, release or surrender by a beneficiary under the taxpayer’s will. This amendment is applicable to transfers, distributions and acquisitions occurring after 1981.

Subclauses 33(5) to (7)

ITA
70(5.2)(a), (b), (d) and (f)

Subsection 70(5.2) of the Act provides rules with respect to the disposition of resource properties and land inventories on death. The amendment to paragraph 70(5.2)(a) is strictly consequential on the repeal of subsections 59(1.1) and (1.2). Similarly, the repeal of paragraph 70(5.2)(b) and one of the amendments to paragraph 70(5.2)(d) are consequential on the repeal of subsections 59(1.1), (1.2), (3) and (3.1) and the amendment which broadens the definition of “Canadian resource property” to include both pre-1972 and

post-1971 properties. These amendments are applicable to deaths occurring after 1984.

There are a number of rollover provisions in the Act which allow deferral of the taxation of accrued gains on property of a deceased taxpayer transferred to the taxpayer's spouse or a trust for the spouse. Two of these provisions are paragraphs 70(5.2)(d) (which provides a rollover of resource properties) and 70(5.2)(f) (which provides a rollover of land inventory). For a rollover under these paragraphs to apply, the property must vest in the spouse or spouse trust within 15 months after the death of the taxpayer and it must be possible to establish within that period or such longer period as is reasonable that the vesting occurred. The period allowed for vesting and for establishing the vesting is being changed from 15 months to 36 months. A reasonable period longer than 36 months may be allowed by the Minister of National Revenue if a written application for it is made to the Minister by the taxpayer's legal representative within the 36-month period or not later than 90 days after Royal Assent to the enacting legislation. These amendments are applicable for deaths occurring after 1984. For a death of a taxpayer occurring after 1981 and before 1985, the amendments are applicable with respect to a property of the taxpayer if the taxpayer's legal representative and each person to whom an interest in the property is transferred or distributed as a consequence of the death of the taxpayer jointly elect for the amendments to apply. That joint election must be made by notifying the Minister of National Revenue in writing on or before the later of December 31, 1985 and the day that is 90 days after Royal Assent to the enacting legislation.

Subclause 33(8)

ITA
70(5.3)

Subsection 70(5) of the Act provides that capital properties of a taxpayer are deemed to have been disposed of at their fair market value at the time of his death. For this purpose, subsection 70(5.3) provides that the fair market value of shares of the capital stock of a corporation shall be determined as though the value of any life insurance policy on the life of the deceased was equal to its cash surrender value immediately before the death. This provision is designed to ensure that life insurance proceeds payable as a consequence of death are not reflected in the share value and therefore do not give rise to a capital gain on death. However, the provision is not fully effective since it only applies to life insurance proceeds payable to the corporation, the shares of which were held by the deceased. As a result, the special valuation rule is not available for the purpose of valuing shares in a holding company that in turn owns shares in another corporation that was the beneficiary under a life insurance policy. The amendment to this subsection removes the requirement that the corporation be a beneficiary under the policy. This change is effective for deaths occurring after December 1, 1982.

Subclauses 33(9) to (15)

ITA
70(5.4)(e), (f) and (g), 70(6)
and (9)

Subsections 70(5.4) and (6) of the Act set out certain rules that apply on the death of a taxpayer. The amendments to paragraphs 70(5.4)(e) and (f),

subparagraph 70(5.4)(g)(i) and the opening words of subsection 70(6) are strictly consequential on new subsection 248(8) of the Act which expands the meaning of property transfers “as a consequence of” the death of a taxpayer to include transfers under a will and transfers as a result of a disclaimer, release or surrender of a beneficiary under the taxpayer’s will. The words “by virtue of” in paragraphs 70(5.4)(e) and (f) are being replaced by the words “as a consequence of” in order to adopt the extended meaning that is given to this phrase in new subsection 248(8). The amendments to subparagraph 70(5.4)(g)(i) and subsection 70(6) simply delete words that are no longer necessary as a consequence of new subsection 248(8). These amendments are applicable to transfers, distributions and acquisitions after 1981.

The other amendments to paragraph 70(5.4)(g) and subsections 70(6) and (9) change the vesting period requirements for property rollovers under those provisions. Paragraph 70(5.4)(g) provides a rollover of property under an indexed security investment plan on death to a spouse or a spouse trust, subsection 70(6) provides a rollover of capital property on death to a spouse or spouse trust and subsection 70(9) provides a rollover of farm property on death to a child. For a rollover under any of these provisions to apply, the property must vest in the beneficiary within 15 months after the death of the taxpayer and it must be possible to establish within that period or such longer period as is reasonable that the vesting occurred. This period allowed for vesting and for establishing the vesting is being changed from 15 months to 36 months. A reasonable period longer than 36 months may be allowed by the Minister of National Revenue if a written application for it is made to the Minister by the taxpayer’s legal representative within the 36-month period or not later than 90 days after Royal Assent to the enacting legislation. These amendments are applicable for deaths occurring after 1984. For a death of a taxpayer occurring after 1981 and before 1985, the amendments are applicable with respect to a property of the taxpayer if the taxpayer’s legal representative and each person to whom an interest in the property is transferred or distributed as a consequence of the death of the taxpayer jointly elect for the amendments to apply. That joint election must be made by notifying the Minister of National Revenue in writing on or before the later of December 31, 1985 and the day that is 90 days after Royal Assent to the enacting legislation.

Subclause 33(16)

ITA
70(9.1)

Subsection 70(9.1) of the Act provides for a rollover on the transfer of farm property from a spouse trust to a child of the settlor of the trust. This provision only applies if the property transferred to the child was the property that the trust originally acquired. The amendment to this subsection extends its application to farm property of a trust that is a replacement property in respect of which the trust has made an election under subsection 13(4) or 44(1) of the Act. This amendment is effective for the 1984 and subsequent taxation years.

Subclauses 33(17) and (18)

ITA
70(9.2) and (9.4)

Subsection 70(9.2) of the Act allows a rollover of capital gains on the transfer of a taxpayer's share in a family farm corporation or his interest in a family farm partnership to his child as a consequence of his death. Subsection 70(9.4) of the Act allows a rollover of capital gains on the transfer of a taxpayer's share of a small business corporation to his child as a consequence of his death. To qualify for a rollover under these subsections, the property must vest in the child within 15 months after the death of the taxpayer and it must be possible to establish within that period or such longer period as is reasonable that the vesting occurred. The period allowed for vesting and for establishing the vesting is being changed from 15 months to 36 months. A reasonable period longer than 36 months may be allowed by the Minister of National Revenue if a written application for it is made to the Minister by the taxpayer's legal representative within the 36-month period or not later than 90 days after Royal Assent to the enacting legislation. These amendments are applicable for deaths occurring after 1984. For a death of a taxpayer occurring after 1981 and before 1985, the amendments are applicable with respect to a property of the taxpayer if the taxpayer's legal representative and each person to whom an interest in the property is transferred or distributed as a consequence of the death of the taxpayer jointly elect for the amendments to apply. That joint election must be made by notifying the Minister of National Revenue in writing on or before the later of December 31, 1985 and the day that is 90 days after Royal Assent to the enacting legislation.

Subclauses 33(19) and (20)

ITA
70(9.5)(d)(iv) and (f)

Subsection 70(9.5) provides for a rollover upon the transfer of shares of a small business corporation from a spouse trust to children of the settlor or testator to the extent that a rollover would have been available had the shares been transferred directly to the children. Under subparagraph (d)(iv) the spouse's legal representative is permitted to specify an amount which is less than the fair market value of the shares as proceeds of their disposition in order to reduce the gain where the legal representative does not want to take maximum advantage of the rollover. Under paragraph (f) the spouse's legal representative is permitted to designate the order in which the shares of the small business corporation have been disposed of for the purpose of these rules. The amendments to these two provisions simply substitute the trust for the legal representative of the spouse so that, on and after Royal Assent to the enacting legislation, the specification and designation are to be made by the trust.

Subclause 33(21)

ITA
70(9.7)(b)

Subsection 70(9.7) of the Act provides for a tax-free transfer of a share of a small business corporation from a child to a parent where the child dies before the parent and the share was received by the child as a result of the

death of his parent or an *inter vivos* transfer from his parent. For this rollover to apply, the share must vest in the parent within 15 months after the death of the child and it must be possible to establish within that period or such longer period as is reasonable that the vesting occurred. The period allowed for vesting and for establishing the vesting is being changed from 15 months to 36 months. A reasonable period longer than 36 months may be allowed by the Minister of National Revenue if a written application for it is made to the Minister by the taxpayer's legal representative within the 36-month period or not later than 90 days after Royal Assent to the enacting legislation. This amendment is applicable for deaths occurring after 1984. For a death of a taxpayer occurring in 1984, the amendments are applicable with respect to a property of the taxpayer if the taxpayer's legal representative and each person to whom an interest in the property is transferred or distributed as a consequence of the death of the taxpayer jointly elect for the amendments to apply. That joint election must be made by notifying the Minister of National Revenue in writing on or before the later of December 31, 1985 and the day that is 90 days after Royal Assent to the enacting legislation.

Subclauses 33(22) to (29)

These set out the effective dates for the amendments to section 70 of the Act.

Reserves for Year of Death

ITA
72(2)(a)(iii)

Clause 34

Section 72 of the Act provides rules for dealing with certain reserves in the year of a taxpayer's death. No reserve is allowed as a deduction in the taxpayer's final year except where an amount receivable is transferred as a consequence of the taxpayer's death to his spouse or a spouse trust and an appropriate election is made. In these circumstances there is a transfer or rollover of the reserves from the taxpayer to the spouse or spouse trust. The amendments to clauses 72(2)(a)(iii)(C) and (D) are strictly consequential on the repeal of subsections 59(1.1), (3) and (3.1). These amendments are applicable to deaths occurring in taxation years commencing after 1984.

Inter Vivos Transfer of Property

ITA
73(3)(a), (b), (b.1) and (d)
73(4)(a) and (c)
73(5)(a) and (b)

Clause 35

These provisions provide rules for the *inter vivos* transfer by a taxpayer to his children of family farm properties, interests in family farm corporations and partnerships and shares of small business corporations. The existing provisions treat the proceeds of disposition as having been received at the time of the transfer of the property in question. This technically prevents the transferor from claiming any reserve under subsection 40(1.1) in respect of those proceeds that are not due and payable until after the end of the year. The amendments remove any reference to the timing of the receipt of proceeds in order to allow the taxpayer to claim a reserve under subsection 40(1.1) where the proceeds or any portion thereof are not payable by the

child until after the end of the year. The amendments are applicable to transfers occurring after 1981.

Exempt Trusts

ITA
75(3)

Clause 36

Under subsection 75(2) of the Act, where a person transfers property to a trust under certain conditions, the income from the property is attributed to the transferor. This special rule applies where the property may revert to the transferor, where the property may pass to persons to be determined by him after the creation of the trust or where during his lifetime the property may not be disposed of except with his consent. New subsection 75(3) provides that this rule does not apply to certain trusts governed by plans such as registered pension funds, registered retirement savings plans, employee benefit plans, employee trusts and related segregated fund trusts. In addition, subsection 75(3) provides that subsection 75(2) does not apply to certain non-resident trusts established in connection with plans to provide employee benefits such as pensions and superannuation. This amendment is applicable to the 1982 and subsequent taxation years.

Debtor's Gain on Settlement of Debts

ITA
80

Clause 37

Section 80 of the Act sets out the rules that apply where a debt owed by a taxpayer is settled or extinguished for less than its principal amount. In most circumstances the resulting gain is not immediately taxable to the debtor but reduces in turn the amount of his deductible loss carryovers from preceding taxation years, the capital cost of his depreciable property and the adjusted cost base of any other capital property.

Subclause 37(1)

ITA
80(1)(d)

Paragraph 80(1)(d) of the Act provides an exception to the above rules where the debt forgiven is such that if interest had been paid by the borrower on the debt the interest would not be deductible. This exception was designed to preclude the application of section 80 to debts such as personal debts that do not relate to the earning of income from a business or property. The existing wording may also operate to prevent the application of section 80 to any non-interest-bearing debt since, had interest been paid on such a debt, it would not have been deductible because there was no legal obligation to pay the interest. To clarify the intent, paragraph 80(1)(d) is amended to ensure that it does not apply to exclude from the section's application debts in respect of which interest would be deductible if paid or payable pursuant to a legal obligation. The paragraph is also amended to clarify that it does not exclude from the debt forgiveness rules debts in respect of which interest is not deductible because of the thin capitalization rules or the interest capitalization rules. The amendments to paragraph 80(1)(d) are applicable with respect to debts or obligations settled or extinguished after May 9, 1985.

Subclause 37(2)

ITA
80(1)(g) and (h)

Paragraphs 80(1)(g) and (h) add two new exceptions to the application of the debt forgiveness rules in subsection 80(1). Paragraph 80(1)(g) clarifies that any portion of a debt extinguished under circumstances to which subsection 39(3) applies is not subject to the application of subsection 80(1). Subsection 39(3) applies where a bond or debenture issued by a taxpayer is purchased by the taxpayer in the open market for less than the amount for which it was issued and treats the gain as a capital gain of the taxpayer.

New paragraph 80(1)(h) provides that subsection 80(1) does not apply to debts or obligations settled or extinguished by way of a bequest or inheritance.

Paragraphs 80(1)(g) and (h) are applicable with respect to debts or obligations settled or extinguished after May 9, 1985.

Subclause 37(3)

ITA
80(3)

Under subsection 80(3), where a debt owed to a parent corporation by its subsidiary is settled or extinguished on the winding-up of the subsidiary under subsection 88(1) for less than both the principal amount of the debt and its cost to the parent, an election may be filed by the parent corporation to treat the debt as having been settled for its cost amount. This rule generally operates to ensure that subsection 80(1) will not apply to the subsidiary unless the cost amount of the debt is less than both the principal amount of the debt and the amount for which it was issued. The amendment to subsection 80(3) provides that the same rule will apply in respect of debts owed to a subsidiary by its parent corporation that are settled or extinguished on a winding-up. This amendment applies to debts settled or extinguished after 1983.

Subclause 37(4)

ITA
80(4)

New subsection 80(4) provides that for the purpose of applying subsections 80(1) and (3) to the forgiveness of unpaid interest, the "principal amount" of the unpaid interest is the portion of such interest that has been deducted in computing income or that has been capitalized under section 18 or 21 of the Act.

This amendment is applicable with respect to debts or obligations settled or extinguished after May 9, 1985.

Subclauses 37(5) and (6)

These set out the effective dates for the amendments to section 80 of the Act.

Clause 38

Subclause 38(1)

ITA
80.4(1)(a)

Subsection 80.4(1) of the Act treats an individual or a corporation that carries on a personal services business as having received a benefit in a taxation year in respect of certain employment-related low-interest or non-interest-bearing loans. Paragraph 80.4(1)(a) includes in the benefit an amount computed by reference to interest at a prescribed rate. This provision is amended, effective on Royal Assent to the enacting legislation, simply to conform to the format of other provisions in the Act that refer to interest at a prescribed rate.

Subclause 38(2)

ITA
80.4(1)(d)

The interest benefit under subsection 80.4(1) of the Act includes amounts of interest on employment-related loans or debts paid or payable by the employer, a person related thereto, or a person or partnership to which the services are provided by a personal service corporation. The benefit under subsection 80.4(1) is reduced by the amount of interest paid on all such indebtedness not later than 30 days after the end of the year. However, a reimbursement by the debtor of any interest paid or payable on such a loan or debt does not represent a payment of interest on the loan or debt and, therefore, technically does not reduce the imputed benefit under subsection 80.4(1). New paragraph 80.4(1)(d), applicable to the 1984 and subsequent taxation years, provides that such reimbursements will reduce the amount of the benefit determined under subsection 80.4(1).

Subclause 38(3)

ITA
80.4(2)(d)

Subsection 80.4(2) of the Act provides a rule similar to that in subsection 80.4(1) requiring the inclusion in income of a benefit in respect of certain shareholder-related loans or debts. The amendment to paragraph 80.4(2)(d) simply conforms this provision to the format of other provisions of the Act that refer to interest at a prescribed rate. The amendment is effective upon Royal Assent to the enacting legislation.

Subclause 38(4)

This sets out the effective date for the introduction of paragraph 80.4(1)(d) of the Act.

ITA
81(1)(g.1) and (g.2)

Clause 39

Subsection 81(1) of the Act lists various amounts which are not included in computing income.

Paragraphs 81(1)(g.1) to (g.3) provide that income received from the investment of funds received as a result of certain personal injury awards is

exempt from tax where the injured person is less than 21 years old. These paragraphs are repealed and replaced by new paragraphs 81(1)(g.1) and (g.2) which ensure that interest and other property income which has accrued in respect of the exempt period is also exempt from tax. In addition, the exempt period is being extended to the end of the taxation year in which the injured person becomes 21 years old. Paragraph 81(1)(g.1) is also amended to encompass the situation described in repealed paragraph 81(1)(g.3) where property acquired as an award is held by someone else for the benefit of the injured taxpayer.

These amendments are applicable to the 1984 and subsequent taxation years.

**Shares Disposed on
Redemption or Cancellation**

ITA
84(9)

Clause 40

Certain consequences under the Act of a disposition of property arise where the property is disposed of in a transaction between persons who do not deal with each other at arm's length. Accordingly, it is in all cases important to ascertain to whom the property was disposed of so the relationship between the parties to the transaction can be established. New subsection 84(9) of the Act provides that, for greater certainty, a disposition of a share of a corporation by a shareholder as a result of the redemption, acquisition or cancellation of that share by the corporation is considered for the purposes of the Act to be a disposition by the shareholder of the share to the corporation. This new subsection is applicable on Royal Assent to the enacting legislation.

**Transfer of Property to a
Corporation**

ITA
85(1) and (2)

Clause 41

Subsections 85(1) and (2) of the Act provide the rules which allow a person or a partnership, as the case may be, to transfer certain types of properties on a tax-deferred "rollover" basis to a taxable Canadian corporation. The amendments to these subsections are consequential on the amendments that broaden the definitions of Canadian resource property and foreign resource property to include both pre-1972 and post-1971 resource properties. The amendments simply replace the references to "a property referred to in subsection 59(2)" with references to "a Canadian resource property, a foreign resource property". These amendments, which do not change the effect of the subsections, are applicable to taxation years commencing after 1984.

Amalgamations

Clause 42

Section 87 of the Act deals with the tax treatment of the amalgamation of two or more taxable Canadian corporations.

Subclauses 42(1) and (2)

ITA
87(1.2), (1.3) and (1.4)

A new company formed as a result of an amalgamation can deduct the unclaimed exploration, development and resource property expenses of the predecessor corporations but only within the limits imposed by the successor corporation rules. Subsection 87(1.2) of the Act applies to the amalgamation of a parent corporation and its wholly-owned subsidiary and permits the resulting new corporation to elect to restrict the successor corporation rules to the exploration, development and resource property expenses of the subsidiary. Where the election is made, the deduction of the parent corporation's expenses would not be restricted as a result of the amalgamation.

The amendment to subsection 87(1.2) expands this exception from the successor corporation rules. Where the predecessor corporations consist of a parent corporation and one or more of its subsidiary wholly-owned corporations, or where the predecessor corporations consist of two or more subsidiary wholly-owned corporations of the same parent corporation, the amendment allows the new corporation formed as a result of the amalgamation to deduct the exploration, development and resource property expenses of each of the predecessor corporations as if the new corporation were the same corporation as each of the predecessor corporations. Thus the successor corporation rules would not apply. This amendment is applicable to amalgamations occurring after 1982.

Subsection 87(1.3) of the Act provides that, where there has been an amalgamation of a parent corporation which is a shareholder corporation under the joint exploration corporation rules and a wholly-owned subsidiary, the resulting new corporation is deemed to be the same as, and a continuation of, the shareholder corporation. The amendment to subsection 87(1.2) of the Act now achieves this result, so subsection 87(1.3) is no longer necessary and is being repealed. As a consequence of the repeal of subsection 87(1.3), the reference thereto in subsection 87(1.4) is being deleted. These amendments are applicable to amalgamations occurring after 1982.

Subclause 42(3)

ITA
87(2)(b)

The cash basis is authorized under section 28 of the Act in computing income from the business of farming or fishing.

Paragraph 87(2)(b) of the Act provides that where a predecessor corporation has used the cash basis method of accounting prior to the amalgamation, the new amalgamated corporation is deemed to acquire the inventory of the predecessor at a nil cost. This amendment provides that where the predecessor corporation elected to place a specified value on its livestock for its last taxation year as allowed under paragraph 28(1)(b), the amalgamated corporation will be treated as having acquired the livestock at the same amount. This amendment ensures that the amount that had been specified under paragraph 28(1)(b) will not be taxed again when the livestock

inventory is actually sold by the newly amalgamated company. The amendment is applicable to amalgamations occurring after 1981.

Subclause 42(4)

ITA
87(2)(v)

Paragraph 87(2)(v) of the Act provides that, for the purpose of claiming a deduction for charitable donations, gifts to Her Majesty and gifts to certain cultural institutions made by a predecessor corporation, an amalgamated corporation will be treated as a continuation of the predecessor corporation. The purpose of this rule is to permit the carryover of the unused donations of the predecessors to the newly amalgamated company. The amendment to this paragraph does not alter the rule but simply abbreviates the wording. This amendment is applicable to the 1984 and subsequent taxation years.

Subclause 42(5)

ITA
87(2)(mm)

Paragraph 87(2)(mm) was added to the Act so that the transitional relief relating to professional work in progress, that was set out in subsection 10(6) of the Act and was available to a predecessor corporation for the 1983 taxation year, would be available to the amalgamated corporation. As this transitional period has ended, paragraph 87(2)(mm) is no longer necessary and is being repealed for the 1984 and subsequent taxation years.

Subclause 42(6)

ITA
87(2)(oo)

Paragraph 87(2)(oo) is added as a consequence of the introduction of new conditions that must be satisfied for a corporation to qualify for the special 35% rate of investment tax credit on research expenditures, the 40% rate of refund in respect of unused investment tax credits and the one-month extension of the date on or before which the corporation is required to pay the balance of its tax payable for a taxation year. To qualify, the taxable income of a corporation for its immediately preceding taxation year, together with the taxable incomes of all associated corporations for their taxation years ending in the calendar year preceding the calendar year in which the corporation's current taxation year ended, must not exceed the aggregate of the business limits of the corporation and the associated corporations for those preceding years. This paragraph ensures that, in applying this test to the first taxation year of an amalgamated corporation, the amalgamated corporation will be considered to have had a preceding taxation year and its taxable income and business limit for that preceding year is the aggregate of the taxable incomes and business limits of its predecessor corporations for their last taxation years. This paragraph is applicable to amalgamations occurring after 1983.

Subclauses 42(7) to (10)

These set out the effective dates for the amendments to section 87 of the Act.

Clause 43

Subsection 88(1) of the Act sets out detailed rules relating to the winding up of a subsidiary into a parent corporation that owns at least 90% of its shares.

Subclause 43(1)

ITA
88(1)(a)

Subparagraph 88(1)(a)(i) is amended as a consequence of the amendment to subsection 59(2) and the amendment to the definition of Canadian resource property. These amendments are explained in the commentaries on those provisions. This amendment is applicable to windings-up commencing in taxation years commencing after 1984.

Subclause 43(2)

ITA
88(1)(e.6)(i)

Paragraph 88(1)(e.6) permits the parent corporation to deduct the portion of the subsidiary's charitable donations, gifts to Her Majesty and gifts to certain cultural institutions that were not deductible by the subsidiary. The amendment to subparagraph 88(1)(e.6)(i), applicable to the 1984 and subsequent taxation years, is consequential on the changes to paragraphs 110(1)(a), (b) and (b.1) that substitute the word "deducted" for "deductible". As a result of this change, a taxpayer is not required to take the maximum deduction for his charitable donations in a year but may instead defer the deduction and claim it in a subsequent year.

Subclause 43(3)

ITA
88(1)(e.8)

New paragraph 88(1)(e.8) is added as a consequence of the introduction of new conditions that must be satisfied by a corporation in order to qualify for the special 35% rate of investment tax credit for qualifying research expenditures, the 40% rate of refund in respect of unused investment tax credits and the one-month extension of the date on which the balance of its tax becomes payable. To qualify for a taxation year, the taxable income of a corporation for its immediately preceding taxation year, together with the taxable incomes of all associated corporations for their taxation years ending in the calendar year preceding the calendar year in which the corporation's current taxation year ended, must not exceed the aggregate of the business limits of the corporation and the associated corporations for those preceding years. This paragraph ensures that, in applying this test to the first taxation year of a parent corporation following that in which it received the assets of its subsidiary on a winding up, the taxable income and the business limit of the parent for the year in which it received the assets will include, respectively, the taxable income and business limit of the subsidiary for that year. This paragraph is applicable to windings-up commencing after 1983.

Subclauses 43(4) and (5)

ITA
88(1.1), (1.1)(d) and (d.1)

Subsection 88(1.1) of the Act permits a parent corporation to utilize the non-capital losses of a subsidiary corporation which has been wound up where the

parent owned at least 90% of the subsidiary's issued shares. The amendments to the preamble of subsection 88(1.1) and new paragraph 88(1.1)(d.1) are strictly consequential on the introduction of new section 110.5 which permits a corporation to add an amount in computing its taxable income and non-capital loss for a taxation year in order to increase the amount of its foreign tax credit. These amendments ensure that the part of a subsidiary's non-capital loss that is attributable to an amount added to its taxable income under section 110.5 will be available to be deducted by its parent corporation following a winding-up on the same basis as any other portion of the non-capital loss. The amendment to paragraph 88(1.1)(d) simply conforms its wording to the wording in paragraph 88(1.1)(d.1) and the preamble of subsection 88(1.1). These amendments apply to non-capital losses for the 1985 and subsequent taxation years.

Subclause 43(6)

ITA
88(1.1)(e)(i)

Subsection 88(1.1) of the Act permits a parent corporation to utilize the non-capital losses of a subsidiary corporation which has been wound up where the parent owned at least 90% of the subsidiary's issued shares. Subparagraph 88(1.1)(e)(i) is amended as a consequence of the amendment to subparagraph 111(5)(a)(i) of the Act which deals with the utilization of non-capital losses where control of a corporation changes. This amendment clarifies that a non-capital loss of a subsidiary for a taxation year ending before an acquisition of control of the parent or the subsidiary may be deducted by the parent in the taxation year in which the acquisition of control occurred provided the business in which the loss arose is carried on throughout the part of the year in which control was acquired, that is after the acquisition of control, rather than throughout the entire year. This amendment applies with respect to windings-up commencing in the 1983 and subsequent taxation years.

Subclause 43(7)

ITA
88(1.1)(e)(ii)(B)

Paragraph 88(1.1)(e) of the Act provides that where control of a parent or subsidiary corporation has been acquired, any non-capital losses incurred by the subsidiary from carrying on a business before the change of control may be deducted by the parent following the winding-up of the subsidiary only if that business is carried on throughout the year in which the loss is sought to be claimed. Where this condition is met, the losses may be deducted to the extent of the parent's income for the year from that business and any similar business. In addition, the non-capital losses may be claimed against the parent's net taxable capital gains from dispositions of certain property owned by the subsidiary at the time of change of control. The computation of net taxable capital gains for this purpose under clause 88(1.1)(e)(ii)(B) is amended as a consequence of amendments to the computation of this amount under clause 111(5)(a)(ii)(B) of the Act which restricts the utilization of non-capital losses where control of a corporation has changed. This amendment comes into force on the same dates as are applicable to the corresponding amendment to clause 111(5)(a)(ii)(B).

Subclauses 43(8), (10) and (11)

ITA
88(1.4), (2) and (2.1)

These subsections are amended simply to clarify that references therein to a subsidiary mean a subsidiary to which the rules in subsection 88(1) have applied on its winding-up. These amendments are applicable to windings-up commencing after 1982.

Subclause 43(9)

ITA
88(1.5)

New subsection 88(1.5) provides that where there has been a winding-up of a subsidiary into a parent corporation that owned at least 90% of the subsidiary's shares, the parent is deemed to be the same corporation as the subsidiary for the purpose of the provisions of the Act dealing with the deduction of exploration, development and resource property expenses. This effectively removes the restrictions of the successor corporation rules that would otherwise apply with respect to the deduction by the parent of the unclaimed balances of these resource expenses of the subsidiary following its winding-up. This amendment is applicable to windings-up commencing after 1982.

Subclauses 43(12) to (18)

These set out the effective dates for the amendments to section 88 of the Act.

Capital Dividend Account

ITA
89(1)(b.1)

Clause 44

Where an appropriate election has been made, dividends paid out of a private corporation's capital dividend account are received tax-free by the corporation's shareholders resident in Canada. The capital dividend account includes the untaxed half of the capital gains of a corporation net of its capital losses. Excluded from the capital dividend account are capital gains and losses to the extent that they accrued while the property was not held by a private corporation unless the property was "designated property" as defined in paragraph 89(1)(b.1). Designated property is property acquired by a private corporation before November 13, 1981 where the corporation last became a private corporation before that date. Property acquired after November 12, 1981 loses its status as designated property even where the property is acquired in a non-arm's-length transaction. The amendment to paragraph 89(1)(b.1) expands the definition of designated property to include property acquired in a non-arm's-length transaction provided that the property was a designated property of the corporation from which it was acquired. In addition, where shares are acquired in a share exchange to which section 51, subsection 85(1) or section 85.1, 86 or 87 applies and the shares given up were designated property, the acquired shares will be designated property of the corporation. This amendment is applicable after November 12, 1981.

Non-Resident Trusts

ITA
94(1)(b)(i)

Clause 45

Section 94 of the Act sets out a number of rules to prevent the avoidance of tax where Canadian residents hold their investment assets in non-resident trusts. The amendment to the section provides authority to make amendments to the Income Tax Regulations so that the section will not apply in inappropriate circumstances. The amendment will be applicable on Royal Assent to the enacting legislation.

Offshore Investment Funds

ITA
94.1(1)(f)(ii)

Clause 46

Section 94.1 of the Act contains an anti-avoidance provision relating to investors in offshore investment funds. The income inclusion required by that section is determined by applying the prescribed rate of interest to the designated cost of a taxpayer's interest in a fund. The amendment to subparagraph 94.1(1)(f)(ii) makes the reference to the prescribed rate of interest conform to the format of other provisions of the Act which refer to a prescribed rate of interest. This amendment is applicable on Royal Assent to the enacting legislation.

Cross Reference

ITA
94.1

The coming-into-force provision in Bill C-7 for the introduction of section 94.1 is being amended by clause 117 (see the commentary for that clause).

Foreign Affiliate Definition

ITA
95(1)(f)

Clause 47

Section 95 of the Act sets out a number of definitions for the purpose of the provisions relating to foreign affiliates. Paragraph 95(1)(f) defines "relevant tax factor" which is used in the formula for providing recognition for the foreign taxes imposed on the earnings of a foreign affiliate. The relevant tax factor is the reciprocal of the standard Canadian corporate tax rate. This reciprocal is determined by cross-reference to section 123 which sets out the standard corporate rate of 46%. However, a recent addition to section 123 introduced a special extra tax rate of 5% for income earned in the Nova Scotia offshore area. Accordingly, two corporate tax rates are now referred to in section 123 and this causes ambiguity in establishing which section 123 rate is the one to be used in determining the relevant tax factor. The amendment to paragraph 95(1)(f) is consequential on this change and simply alters the reference to section 123 to ensure that the relevant tax factor is determined as the reciprocal of 46%. This amendment is applicable to taxation years commencing after June 22, 1984 – the date on which the special rate for income earned in the Nova Scotia offshore area was made effective.

Partnership Income

ITA
96(1)(d)

Clause 48

Under subsection 96(1) of the Act, the income earned and losses incurred by a partnership are generally calculated at the partnership level and attributed to partners in accordance with their respective interests. However, paragraph 96(1)(d) provides that the income or loss of a partnership is computed without reference to the disposition of resource properties or the deduction of exploration, development and resource property expenses. These items are included in computing the income or loss of the individual partners. One amendment to this paragraph is consequential on the repeal of subsections 59(1.1), (1.2) and (3.1), which is explained in the commentary thereunder. Another amendment replaces references to subsection 66(12.1) and paragraphs 66(12.2)(a), (12.3)(a) and (12.5)(a) by references to subsections 66.1(1), 66.2(1) and 66.4(1) which more directly refer to the amounts excluded from the computation of income or loss of a partnership – namely, any negative balances in cumulative Canadian exploration expense, cumulative Canadian development expense and cumulative Canadian oil and gas property expense accounts. These changes are applicable to taxation years commencing after 1984.

Rules when Election by Partners

ITA
97(2)

Clause 49

Subsection 97(2) of the Act provide the rules which allow a person to transfer certain types of properties on a tax-deferred “rollover” basis to a partnership. The amendment to this subsection is consequential on the amendments that broaden the definitions of Canadian resource property and foreign resource property to include both pre-1972 and post-1971 resource properties. The amendment simply replaces the reference to a “property referred to in subsection 59(2)” with references to “a Canadian resource property, a foreign resource property”. This amendment, which does not change the effect of the subsection, is applicable to taxation years commencing after 1984.

Income of Trusts

ITA
104(4), (5) and (5.2)

Clause 50

Subclauses 50(1) to (3)

Subsection 104(4) of the Act treats all non-depreciable capital property, resource property and land inventory of a trust as having been disposed of for fair market value and to have been reacquired for the same value at specified times. Generally those times are on the death of a spouse and every 21 years thereafter in the case of a spousal trust, and every 21 years in the case of other trusts. A similar rule is provided in subsection 104(5) for depreciable properties. These provisions result in the realization by the trust of any accrued capital gains or losses and of depreciation recapture at the times specified. The existing provisions do not produce the intended result on the deemed disposition and reacquisition of resource properties because of the

way in which the Act pools the costs of resource properties and the proceeds of disposition of such properties. Subsection 104(4) is amended so that it no longer applies to resource properties and new rules dealing with these properties are set out in new subsection 104(5.2).

New subsection 104(5.2) provides that each Canadian resource property and foreign resource property of a trust is treated as having been disposed of at the specified times and the trust is treated as having a taxation year ending at such times for the purposes of computing the amount to be included in its income as a result of this disposition of the resource properties. In addition, the trust is allowed to claim any deduction for foreign exploration and development expenses allowed under subsection 66(4) of the Act in respect of the taxation year which ends at the specified time. Subsection 104(5.2) also provides that a new taxation year of the trust commences immediately thereafter and that the trust reacquires the resource properties at the beginning of that new taxation year for their fair market value.

The amendment to subsection 104(5) is strictly technical and ensures that the specified times for the deemed disposition of depreciable properties of a particular trust are those determined in relation to the circumstances of that trust. These amendments are applicable to taxation years of a trust commencing after 1984.

Subclause 50(4)

Amounts payable to the beneficiary of a trust are generally deductible under the Act in computing the trust's income and are included in computing the income of the beneficiary. Subsection 104(18) provides that where the only reason that the income of a trust is not payable to a beneficiary in the year is that the beneficiary was an infant or minor, such amount will be considered to be payable to the beneficiary. The use of the word "infant" is redundant, since an infant is necessarily a minor. Accordingly, this amendment, applicable to the 1985 and subsequent taxation years, removes the reference to infant.

Subclause 50(5)

Section 110.1 of the Act provides what is generally referred to as the \$1,000 investment income deduction. A taxpayer's interest income, grossed-up taxable dividends and taxable capital gains from the disposition of Canadian securities qualify for that deduction. A trust, other than a testamentary trust, is not entitled to claim the \$1,000 investment income deduction. However, under subsections 104(19) and (26) a trust may designate portions of its taxable dividends and eligible interest income that are payable to a beneficiary so that the designated portions qualify for the \$1,000 investment income deduction by the beneficiary. There is no similar provision in the Act to allow a trust, other than a mutual fund trust, to designate a portion of its capital gains from the disposition of Canadian securities so that it may qualify for the \$1,000 investment income deduction.

ITA
104(18)

ITA
104(21.1)

New subsection 104(21.1) allows a trust, other than a mutual fund trust, to designate a portion of such capital gains that are payable to a beneficiary so that the designated portion will be eligible for the purposes of the \$1,000 investment income deduction by the beneficiary. The portion that may be designated under subsection 104(21.1) may not exceed the trust's taxable capital gains from the disposition of Canadian securities net of the trust's allowable capital losses from the disposition of Canadian securities and any amount deducted by the trust under paragraph 111(1)(b) of the Act in respect of a capital loss carryover that is attributable to the disposition of Canadian securities. In addition, any amounts designated by the trust under subsection 104(21.1) in respect of one beneficiary may not be designated in respect of any other beneficiary. Subsection 104(21.1) is applicable to the 1985 and subsequent taxation years.

Subclause 50(6)

ITA
104(23)(d)

Subsection 104(23) provides special rules that are applicable to testamentary trusts. One of these rules allows the legal representative of a beneficiary of a testamentary trust who died after the end of the trust's taxation year but before the end of the calendar year to file a separate return of income for the beneficiary that reports the beneficiary's income from the trust for the period from the end of its taxation year to the date of death. The Act does not provide for any deductions from income in computing taxable income for the purposes of that separate return. This amendment, together with new section 114.2, expressly allows for the deduction of the personal exemptions of the deceased and further allows the legal representative to claim in the separate return of income the various other deductions ordinarily allowed in computing taxable income of an individual to the extent that they are not claimed on another return of the individual's income for the year. These other deductions include those relating to charitable donations and the \$1,000 investment and pension income deductions. This amendment is applicable to the 1985 and subsequent taxation years.

Subclause 50(7)

ITA
104(26)

A trust, other than a testamentary trust, is not entitled to claim the \$1,000 investment income deduction under section 110.1 of the Act. However, under subsection 104(26) a trust may designate a portion of its eligible interest income that is payable to a beneficiary so that it may qualify for the \$1,000 investment income deduction by the beneficiary. Subsection 104(26) is amended to exclude income referred to in subparagraphs 110.1(1)(b)(iii.1) and (iii.2) which does not represent interest. The amendment ensures that the rule in subsection 104(26) is limited to designations of interest income. It is applicable with respect to the 1985 and subsequent taxation years.

Subclauses 50(8) and (9)

These set out the effective dates for the amendments to section 104 of the Act.

Spouse Trusts

Clause 51

ITA
107(4)

Subsection 107(4) of the Act provides special rules that apply where a spousal trust distributes certain types of property (capital property, resource property and land inventory) during the spouse's lifetime to a beneficiary other than the spouse. The amendment to paragraph 107(4)(a) is strictly consequential on the amendments which broaden the definitions of "Canadian resource property" and "foreign resource property" to include resource properties acquired before 1972 as well as those acquired after 1971. This amendment is applicable to taxation years commencing after 1984.

Testamentary Trust

Clause 52

ITA
108(1)(i)(ii) and (iii)

Paragraph 108(1)(i) of the Act defines the term "testamentary trust". Excluded from the definition are certain trusts to which property has been contributed otherwise than by an individual as a consequence of his death. The present wording of the provision is too restrictive since it would disqualify a trust which has received contributions by an individual that are effective after his death. It is not intended that a contribution to a trust by an individual that takes effect after the death of his surviving spouse would disqualify a trust as a testamentary trust. Subparagraphs (ii) and (iii) are amended to disqualify only those trusts receiving contributions otherwise than by an individual on or after his death and as a consequence thereof. The amendment applies to taxation years commencing after November 12, 1981 – the date on which the new definition of "testamentary trust" took effect.

Deductions for Dependants

Clause 53

Subclause 53(1)

ITA
109(1)(d)

Paragraph 109(1)(d) of the Act allows a deduction for a child of a taxpayer who is wholly dependent on him for support. The amendment to the paragraph removes the word "wholly" as a consequence of the repeal of subsection 109(3) which at present provides artificial rules for determining on which parent a child will be treated as wholly dependent. A related amendment to subsection 109(5) allows the taxpayers eligible to claim a deduction in respect of a dependent child to decide upon the portion of the deduction each may claim. These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 53(2)

ITA
109(1)(e)

Paragraph 109(1)(e) of the Act provides the deduction for a wholly dependent niece or nephew. The amendment to the paragraph removes the word "wholly" so that it is no longer necessary to establish that a niece or nephew was wholly dependent on the taxpayer for support. A related

amendment to subsection 109(5) will allow taxpayers eligible to claim a deduction in respect of a dependent niece or nephew to decide upon the portion of the deduction each may claim. These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 53(3)

ITA
109(3)

Subsection 109(3) of the Act provides that for the purpose of the deduction for a dependent child, unless the contrary is established, an illegitimate child is assumed to be wholly dependent on his mother and that any other child is wholly dependent on his father. This rule is arbitrary and may violate section 15 of the Canadian Charter of Rights and Freedoms and is, therefore, repealed for the 1985 and subsequent taxation years.

Subclause 53(4)

ITA
109(5)

Subsection 109(5) of the Act provides a rule which allows two or more taxpayers eligible to claim a deduction in respect of the same dependant to decide upon the portion of the deduction each may claim. Where the taxpayers cannot reach an agreement, the portions may be fixed by the Minister of National Revenue. The existing rule applies only for the deduction in respect of a dependent parent, grandparent, brother, sister, aunt or uncle. The amendment to this subsection, applicable to the 1985 and subsequent taxation years, adds a reference to paragraphs 109(1)(d) and (e) so that this rule will be extended to the deductions for dependent children, grandchildren, nephews and nieces and provides that no more than the maximum amount deductible under any of paragraphs 109(1)(d), (e), (f) and (g) by one taxpayer may be claimed in respect of the same dependant.

Subclause 53(5)

This sets out the effective date for the amendments to section 109 of the Act.

**Deductions in Computing
Taxable Income**

Clause 54

Subclauses 54(1) and (2)

ITA
110(1)(a), (b) and (b.1)

Paragraph 110(1)(a) of the Act provides a deduction in computing taxable income for charitable donations made in a year and allows such donations which are not deductible in the current year to be carried forward for up to five years. This paragraph is amended to allow such amounts which, while deductible in a year, are not actually deducted in that year to be eligible for the carryforward. A similar change is made to paragraphs 110(1)(b) and (b.1) which provide deductions in computing taxable income for gifts to Her Majesty and gifts to certain cultural institutions. This will accommodate those taxpayers who may have income for a year but because of certain deductions to which they are entitled may have little or no taxable income in

the year and therefore do not realize any tax benefit from having made the donation. These amendments are applicable to the 1984 and subsequent taxation years, except that the special coming-into-force rule in subclause 54(10) prevents the carryforward of charitable donations made in a taxation year before 1984 in which the taxpayer claimed the optional standard \$100 deduction.

Subclause 54(3)

ITA
110(1)(c)

Paragraph 110(1)(c) of the Act contains a list of expenditures which qualify as deductible medical expenses. There are several amendments to this paragraph. Subparagraphs (i) and (ii) are amended to provide that, while qualifying medical expenses must be incurred within any 12-month period ending in the taxation year in question, in the event of the death of the taxpayer, the time period is extended to any 24-month period that includes the date of death. In addition, the wording immediately following subparagraph (ii) is amended to include the requirement to file receipts supporting the medical expenses which now appears at the end of the paragraph. These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 54(4)

ITA
110(1)(c)(v)

Paragraph 110(1)(c)(v) includes as a qualifying medical expense amounts paid by the taxpayer for the full-time care in a nursing home of a dependant due to his lack of normal mental development. This provision is amended to expand its scope by changing the test of disability to lack of normal mental capacity. In addition, subparagraph 110(1)(c)(v) is amended to include, as a qualifying medical expense, amounts paid for full-time care of the taxpayer or his spouse in a nursing home. Under the existing provision, the deduction is only available for amounts paid for the care in a nursing home of a dependant in respect of whom the taxpayer is allowed to claim a deduction under section 109. These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 54(5)

ITA
110(1)(c)(xv) and (xvi)

Subparagraph 110(1)(c)(xv) is amended to clarify that the costs of dentures and other expenses paid to a dental mechanic include only those expenses incurred for the taxpayer, his spouse or any dependant in respect of whom the taxpayer is allowed to claim a deduction under section 109. New subparagraph 110(1)(c)(xvi) replaces subsection 110(6) which treats premiums under private health service plans as qualifying medical expenses. These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 54(6)

ITA
110(1)(e.2)

Paragraph 110(1)(e.2) of the Act provides for the transfer to a taxpayer of the special deduction that is allowed under paragraph 110(1)(e) to a

dependant who is blind or confined to a bed or wheelchair to the extent that the dependant is unable to use the deduction. The amendment clarifies that the transfer is available only where a medical expense deduction is not claimed in respect of amounts paid to an attendant, or for care in a nursing home, for the dependant. This amendment is applicable to the 1985 and subsequent taxation years.

Subclause 54(7)

ITA
110(1.2)

Subsection 110(1.2) of the Act allows charitable gifts, gifts to Her Majesty and gifts to certain cultural institutions made in the year of death which are not deductible by a taxpayer in that year to be carried back to the immediately preceding year. The word "deductible" in the subsection is being replaced by "deducted" as a consequence of similar amendments in paragraphs 110(1)(a), (b) and (b.1). This amendment is applicable to the 1984 and subsequent taxation years.

Subclause 54(8)

ITA
110(6) and (7)

Subsection 110(6) of the Act allows premiums paid by a taxpayer to a private health services plan to be considered to be medical expenses of the taxpayer. This provision is replaced by new subparagraph 110(1)(c)(xvi) and as a consequence is being repealed for the 1985 and subsequent taxation years.

New subsection 110(6) contains two rules for the purposes of determining medical expenses that qualify for deduction under paragraph 110(1)(c). Paragraph 110(6)(a) replaces the existing rules in subsection 110(6.1) and provides that where a benefit is included in a taxpayer's income from employment on account of medical expenses paid for him by his employer, the amount of the benefit will be treated as a medical expense paid by the taxpayer. Paragraph 110(6)(b) replaces the existing rule in subsection 110(7) that disallows any deduction for medical expenses for which a taxpayer is reimbursed to the extent that the reimbursed amount is not required to be included in computing his income.

Subsection 110(7) of the Act is replaced by new paragraph 110(6)(b) and is therefore being repealed for the 1985 and subsequent taxation years. New subsection 110(7) provides that where more than one taxpayer is entitled to claim the special \$1,000 deduction that is transferred under paragraph 110(1)(e.2) from the same dependant, the total deduction must be shared. If the taxpayers cannot agree on portions to be claimed by each, the Minister of National Revenue may fix the portions. This rule is the same as the corresponding rule provided in subsection 109(5) for apportioning the deduction for children and other dependants who are dependent on more than one taxpayer for support.

Subclause 54(9)

ITA
110(8)(a)(iii)

Paragraph 110(8)(a) of the Act defines those “private health services plans” in respect of which premiums paid by a taxpayer qualify as medical expenses for the purposes of the medical expense deduction. Provincial health services plans to which the federal government contributes under the *Federal-Provincial Fiscal Arrangements and Established Programs Financing Act, 1977* are excluded from the definition of “private health services plan” by subparagraph 110(8)(a)(iii). The amendment to that subparagraph changes the reference to that statute strictly as a consequence of a recent change in the name of the statute to the *Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977*. This amendment is applicable on Royal Assent to the enacting legislation.

Subclauses 54(10) and (11)

These set out the effective dates for the amendments to section 110 of the Act.

Forward Averaging

Clause 55

Subclause 55(1)

ITA
110.4(6) and (6.1)

Section 110.4 of the Act deals with the special deduction for forward-averaging. Subsection 110.4(6) provides, in part, that an individual’s election to forward-average an amount for a year is invalid unless the individual pays the full amount of taxes, interest and penalties assessed within 30 days of the date of the first notice of assessment for the year. As a consequence of the introduction of the new provisions relating to taxes in controversy, there will be circumstances where the payment of taxes, interest and penalties may be deferred. It would be inappropriate to invalidate a forward-averaging election for those taxpayers who take advantage of the new provisions allowing for the deferred payment of amounts in controversy. The amendment to subsection 110.4(6) deletes the requirement that payment of assessed amounts must be made within the 30-day period. This amendment is applicable with respect to elections filed for the 1984 and subsequent taxation years and with respect to elections filed for the 1982 and 1983 taxation years where the taxpayer so requests in writing before 1986.

There is no provision under the existing forward averaging rules for the revocation of an election under subsection 110.4(1) to forward average or an election under subsection 110.4(2) to bring back into taxable income amounts previously forward-averaged. However, under the existing law a failure to pay all outstanding amounts within 30 days of an assessment in effect provided a mechanism that allowed taxpayers to invalidate forward-averaging elections under subsection 110.4(1). New subsection 110.4(6.1) now provides an express rule allowing for the revocation of an election to forward average or an election to include forward-averaged amounts in

taxable income. This is done by filing a written notice of revocation with the Minister within 30 days of an assessment for the year. The subsection also provides that a deceased taxpayer's legal representative may revoke an election filed in the year in which the taxpayer died by filing a written notice of revocation with the Minister on or before the date on which the taxpayer's return of income for the year of death is required to be filed. This new subsection is applicable to the 1982 and subsequent taxation years except that for the 1982 and 1983 taxation years the notice of revocation may be filed at any time on or before the later of the day it would be required by the subsection to be filed and December 31, 1985.

Subclause 55(2)

ITA
110.4(7)

Subsection 110.4(7) is repealed for the 1982 and subsequent taxation years. This subsection dealt with the circumstances where the amount in respect of which a taxpayer has made a forward-averaging election exceeds the maximum available. It provided that the forward-averaging tax paid in respect of such excess would be treated as tax paid on account of the taxpayer's ordinary tax liability under Part I of the Act. However, because a forward-averaging tax adjustment is reflected in a taxpayer's Part I tax calculation, subsection 110.4(7) is redundant. In addition, the date on which the amount is regarded as having been paid under the existing provision is inappropriate.

Subclause 55(3)

ITA
110.4(8)(a)

Paragraph 110.4(8)(a) of the Act provides the definition of "accumulated averaging amount" for the purposes of the forward averaging rules. The amendment to paragraph 110.4(8)(a) gives the legal representatives of a deceased taxpayer who qualifies for the block averaging provisions available to farmers and fishermen the choice between the application of the block averaging provisions and the consequences of calculating tax payable on the deceased taxpayer's accumulated averaging amount under the forward averaging rules. This amendment is required because the calculation under the block averaging and the forward averaging provisions are incompatible and to prevent a duplication of tax savings that can be realized under each averaging formula. This amendment is applicable to the 1985 and subsequent taxation years.

Subclauses 55(4) to (7)

These set out the effective dates for the amendments to section 110.4 of the Act.

Addition to Taxable Income

Clause 56

ITA
110.5

Section 126 of the Act permits a taxpayer to claim a foreign tax credit. The credit is equal to the lesser of the foreign tax paid on the taxpayer's foreign

source income and the Canadian tax that would otherwise be payable on that income. Where a taxpayer incurs a loss in a taxation year the amount of Canadian tax otherwise payable on foreign source income may be reduced. This would occur wherever the loss reduces the taxpayer's total income to an amount that is less than his foreign source income. In those circumstances, the Canadian tax otherwise payable may be less than the foreign tax paid on such income and, as a result, the amount that may be claimed as a foreign tax credit would have been reduced as a result of the deduction of the loss in computing income. This reduction is generally referred to as the foreign tax credit wastage attributable to the loss. New section 110.5 permits a corporation in such circumstances to increase its taxable income in order to avoid this wastage of the foreign tax credit. The amount added to taxable income is also added to the corporation's non-capital loss which may be carried over to other taxation years. The provision does not enable a corporation to add amounts to taxable income in order to produce tax against which the investment tax credit and other tax credits may be claimed. This amendment is applicable to the 1985 and subsequent taxation years.

Loss Carryovers

Clause 57

Subclause 57(1)

ITA
111(5)(a)(i)

Subsection 111(5) of the Act provides restrictions on the deductibility of a corporation's non-capital losses where there has been a change of control of the corporation. The amendment to subparagraph 111(5)(a)(i) clarifies that a non-capital loss incurred before the change of control may be deductible in the year in which control changed provided the business in which the loss was sustained is carried on by the corporation throughout the part of the year that is after the acquisition of control, rather than throughout the entire year. This amendment applies with respect to acquisitions of control occurring in the 1984 and subsequent taxation years.

Subclause 57(2)

ITA
111(5)(a)(ii)(B)

Subsection 111(5) of the Act provides that where control of a corporation is acquired, any non-capital losses incurred by the corporation in carrying on a business before the acquisition of control are deductible only if the business is carried on throughout the year in which the loss is sought to be claimed. Where this condition is met the losses may be deducted to the extent of the corporation's income from that business and any other similar business. In addition, the non-capital losses may be claimed against the corporation's net taxable capital gains from dispositions of property owned by it at the time of acquisition of control, other than property acquired from the person who acquired control or a person who did not deal at arm's length with such person.

Clause 111(5)(a)(ii)(B) is amended to limit this restriction so that non-capital losses may offset any such taxable capital gains other than those on

property acquired in the two-year period preceding the acquisition of control from the person who acquired control or a person who did not deal at arm's length with such person. A further amendment to this clause removes any restriction on the offset of non-capital losses against taxable capital gains arising from dispositions in the year but before the acquisition of control. These two amendments are applicable with respect to acquisitions of control occurring in the 1984 and subsequent taxation years. Clause 111(5)(a)(ii)(B) is also amended to require for these purposes that a corporation's taxable capital gains be reduced by all of its allowable capital losses including its allowable business investment losses. This amendment applies to acquisitions of control occurring after May 9, 1985.

Subclause 57(3)

ITA
111(8)(a)

Paragraph 111(8)(a) of the Act defines the "net capital loss" of a taxpayer for a taxation year. Certain losses realized on the sale of shares or other securities of a Canadian-controlled private corporation are treated separately as business investment losses. Any such losses which cannot be deducted in the year they arose are treated as non-capital losses which can be carried back three years and carried forward seven years. Net capital losses, however, can be carried forward indefinitely. The amendment to paragraph 111(8)(a), applicable to the 1985 and subsequent taxation years, removes the restriction on the carryover of allowable business investment losses. This is achieved by including in a taxpayer's net capital loss for a taxation year his unutilized allowable business investment loss in respect of which the carry-over period expires in that year. Thus allowable business investment losses which cannot be deducted in the carryforward period for non-capital losses can be carried forward indefinitely as net capital losses.

Subclause 57(4)

ITA
111(8)(b)

Paragraph 111(8)(b) of the Act defines the "non-capital loss" of a taxpayer for a taxation year. The amendment to this paragraph is consequential on the introduction of new section 110.5. Where a corporation's foreign tax credit would otherwise be reduced as a consequence of the deduction of a loss in computing income, new section 110.5 permits the corporation to add an amount to taxable income to the extent that the addition results in an increased foreign tax credit. This amendment ensures that the amount added back to taxable income under that section is included in the corporation's non-capital loss which may be carried over for deduction in other taxation years. This amendment applies to the 1985 and subsequent taxation years.

Subclauses 57(5) to (7)

These set out the effective dates for the amendments to section 111 of the Act.

Taxable Dividends

ITA
112(2.1)(a)

Clause 58

Subsection 112(2.1) of the Act prevents a “specified financial institution” from deducting taxable dividends received on term preferred shares in computing its taxable income. The definition of specified financial institution in paragraph 112(2.1)(a) is amended to remove the reference to “an insurance corporation” since these corporations are already included in the list of corporations described in paragraphs 39(5)(b) to (f) that are referred to in that paragraph. This amendment is applicable on Royal Assent to the enacting legislation.

Deductions in Separate Returns

ITA
114.2

Clause 59

The Act allows the legal representative of a deceased taxpayer to file separate income tax returns in respect of certain types of income arising in the year of death. New section 114.2 is introduced, applicable to the 1985 and subsequent taxation years, expressly to provide for deductions in these separate returns for certain allowances, such as those for charitable donations, medical expenses and the \$1,000 investment income and pension income deductions. This amendment gives flexibility to the legal representative to determine on which return to claim these deductions but limits the overall claim to the amount that could be claimed if separate returns were not filed. This amendment does not apply with respect to the personal exemptions that may be claimed under section 109 of the Act. The section 109 personal exemptions remain deductible on each of the separate returns as well as the ordinary return.

Non-Residents' Taxable Income Earned in Canada

ITA
115(1)(a)(iii.3) and
(b)(v)(B)

Clause 60

Subclauses 60(1) and (2)

Subsection 115(1) of the Act determines the taxable income earned in Canada on which a non-resident is subject to taxation under Part I of the Act. The amendment to subparagraph 115(1)(a)(iii.3) and the repeal of existing clause 115(1)(b)(v)(B) are strictly consequential on the amendment to the definition of Canadian resource property in paragraph 66(15)(c) to include properties acquired before 1972. The existing clause 115(1)(b)(v)(B.1) is renumbered as clause 115(1)(b)(v)(B). These changes are applicable to taxation years commencing after 1984.

Subclause 60(3)

ITA
115(1)(d)

Subsection 115(1) of the Act determines the amount of taxable income earned in Canada on which a non-resident is subject to tax under Part I of the Act. In computing such taxable income, paragraph 115(1)(d) permits a non-resident to claim certain of the deductions in computing taxable income that are available to residents of Canada. As the result of recent amendments

to the Act, workmen's compensation, social assistance payments and amounts received by an individual that are exempt from income tax by virtue of a tax treaty are included in the income of a taxpayer and are deductible in computing the taxpayer's taxable income. However, under the existing provisions, the deduction of these amounts by a non-resident is available only where all or substantially all of his income for the year consists of taxable income earned in Canada. This is an unintended result and the amendment to paragraph 115(1)(d) will allow a non-resident to deduct amounts exempted by tax treaty, workmen's compensation and social assistance payments in computing his taxable income earned in Canada. This amendment is applicable to the 1982 and subsequent taxation years.

Subclauses 60(4) and (5)

ITA
115(4)

Subsection 115(4) of the Act provides special rules for a non-resident who ceases to carry on a resource-related business in Canada. The amendments to subsection 115(4) are strictly consequential on the amendments to the definition of Canadian resource property in paragraph 66(15)(c) of the Act to include properties acquired before 1972 as well as those acquired after 1971. These amendments are applicable to taxation years commencing after 1984.

Subclauses 60(6) and (7)

These set out the effective dates for the amendments to section 115 of the Act.

**Certificate for Property
Dispositions by Non-Residents**

ITA
116(5.1) and (5.2)

Clause 61

Section 116 of the Act establishes procedures for collecting tax from non-residents on the proposed or actual disposition of taxable Canadian property and Canadian resource properties. The amendments to subsections 116(5.1) and (5.2) are strictly consequential on amendments to the definition of Canadian resource property in paragraph 66(15)(c) of the Act to include properties acquired before 1972 as well as those acquired after 1971. These amendments are applicable to taxation years commencing after 1984.

Individual Tax Rates

ITA
117(1) to (5.1)

Clause 62

Subclause 62(1)

Subsections 117(1) to (5.1) of the Act set out the tax rate tables for individuals for the years 1972 to 1981. Since these rates no longer apply, the subsections are being repealed. The repeal of the rate tables does not in any way affect their application for determining tax payable for those years. The repeal of the rate tables is effective on Royal Assent to the implementing legislation.

Subclause 62(2)

ITA
117(6)

To facilitate the computation of the tax payable by most individuals, a table is prepared and included in the annual personal tax return package showing the amount of tax payable for given levels of taxable income. Subsection 117(6) of the Act provides the authority for this table. A recent amendment to subsection 120(3.1) of the Act dealing with the special federal tax credit replaced former paragraph 120(3.1)(b) with a new paragraph 120(3.1)(a). The present amendment to subsection 117(6) changes the reference to “paragraph 120(3.1)(b)” for the 1984 and subsequent taxation years so that it now refers to paragraph 120(3.1)(a) which sets out the amount of the federal tax credit. Subsection 117(6) is also restructured simply to make it easier to read.

Subclause 62(3)

This sets out the effective date for the amendments to section 117 of the Act.

Personal Income Tax Indexation

Clause 63

Subclause 63(1)

ITA
117.1(1)(e)

Section 117.1 of the Act contains rules for indexing certain tax brackets and personal exemptions. Subsection 117.1(7.1) contains the indexing rules for taxation years ending after 1982 and incorporates the 6% and 5% limitations on the indexing factor for 1983 and 1984. To simplify the indexing provisions, subsection 117.1(7.1) is repealed and paragraph 117.1(1)(e) is amended to incorporate the 6% and 5% limitations on indexing in the calculation of the indexing ratio for the 1985 and subsequent taxation years.

Subclause 63(2)

ITA
117.1(6)

Subsection 117.1(6) of the Act provides the rules for the rounding of certain indexed amounts to the nearest dollar or the nearest multiple of ten dollars. The amendment to this subsection is strictly consequential on the change made to subsection 117.1(1) in Bill C-2 and replaces the reference to “paragraph (1)(d)” by a reference to “paragraph (1)(c)”. This amendment is applicable to the 1984 and subsequent taxation years.

Subclause 63(3)

ITA
117.1(7.1)

The repeal of subsection 117.1(7.1) of the Act, applicable to the 1985 and subsequent taxation years, is consequential on the amendment to paragraph 117.1(1)(e) of the Act and is explained in the commentary on that amendment.

Subclauses 63(4) and (5)

These set out the effective dates for the amendments to section 117.1 of the Act.

Block Averaging

ITA
119(9) and (10)

Clause 64

Section 119 of the Act permits what is generally referred to as five-year “block averaging” for determining tax payable by farmers and fishermen. Subsections 119(9) and (10) provide rules affecting the calculation of the investment tax credit of a farmer or fisherman who has used the five-year block averaging. The amendments to these subsections are strictly consequential on the changes resulting from the simplification of the investment tax credit provisions in section 127 of the Act. These amendments apply to the 1985 and subsequent taxation years.

Federal Tax Reduction

ITA
120(3.1)

Clause 65

Subsection 120(3.1) of the Act permits an individual to claim a special federal tax credit in computing his tax payable. The maximum amount of this special credit is \$100 for 1985 and is reduced to \$50 for 1986 and subsequent years. Where the taxpayer's spouse is resident in Canada, he may also claim the unused portion of his spouse's tax credit. In the case of a taxpayer who is bankrupt, two tax returns are required to be filed, one under paragraph 128(2)(e) of the Act by the trustee in bankruptcy and one under paragraph 128(2)(f) of the Act by the taxpayer himself. It is intended that the spouse's tax credit may be claimed on the return that is required to be filed under paragraph 128(2)(f) by the taxpayer but not on the special return to be filed under paragraph 128(2)(e) by the trustee in bankruptcy. The amendment to subsection 120(3.1), which is applicable to the 1984 and subsequent taxation years, changes the present reference to subsection 128(2) to a reference to paragraph 128(2)(e) and thereby effectively allows a bankrupt individual to claim the unused portion of his spouse's federal tax credit in his return filed under paragraph 128(2)(f).

Tax Payable by *Inter Vivos* Trust

ITA
122(1) and (3)

Clause 66

Subsection 122(1) of the Act establishes the tax rate for certain *inter vivos* trusts other than mutual fund trusts and subsection 122(3) establishes the tax rate for mutual fund trusts. In general, the tax for these trusts is intended to be the greater of 34% of taxable income and the tax computed under the individual tax rates. However, since the top marginal tax rate for individuals is now 34%, the greater amount is invariably 34% of taxable income. Accordingly, these provisions are being simplified and their intent is being expressed more directly by repealing subsection 122(3) and amending subsection 122(1) to provide that the tax rate under Part I of the Act for these trusts is 34%. These amendments are effective for the 1985 and subsequent taxation years.

Special Deduction from Tax

ITA
122.1

Clause 67

Section 122.1 of the Act provided a special federal tax reduction of up to \$100 for 1978 for individuals resident in those provinces which agreed to a

temporary reduction in their retail sales tax rates. The amount of the federal reduction was matched by a corresponding increase in provincial personal income taxes and the effect was therefore to compensate the provinces for a part of the cost of their sales tax rate reductions. This arrangement applied only for 1978 and this provision is now repealed.

Overseas Employment Tax Credit

ITA
122.3(1)(d)

Clause 68

The overseas employment tax credit under section 122.3 of the Act may be claimed by individuals resident in Canada who work abroad for six consecutive months or longer (the “qualifying period”) for a specified employer in connection with a resource, construction, installation, agricultural or engineering project. The amendment to paragraph 122.3(1)(d) clarifies that income from any other employment during the qualifying period will not be taken into account in determining the amount of this special credit. This amendment applies to the 1985 and subsequent taxation years.

Corporate Tax Reduction and Surtaxes

ITA
123.1 to 123.5

Clause 69

Section 123.1 of the Act provided a corporate tax reduction to the end of 1972. Sections 123.2 to 123.5 provided special corporate surtaxes for specified periods starting after April 1974 and ending before 1984. Since these sections no longer apply, they are being repealed. The repeal of these sections does not affect their application for determining corporate tax payable for the relevant years from 1972 to 1983.

Manufacturing and Processing Credit

ITA
125.1(3)(b)

Clause 70

Section 125.1 of the Act provides a reduced rate of corporate tax on Canadian manufacturing and processing profits. Paragraph 125.1(3)(b) specifies the activities that are not considered to be manufacturing and processing activities for the purpose of section 125.1. Subparagraphs 125.1(3)(b)(vi) and (vi.1) are amended and new subparagraph 125.1(3)(b)(vi.2) is added to clarify that processing of iron ore beyond the pellet stage and of tar sands beyond the crude oil stage will qualify as processing activities for the purpose of the reduced corporate tax rate. These amendments are applicable to the 1985 and subsequent taxation years.

Foreign Tax Credit

ITA
126(1)(b)(ii)(A) and (B)
(2.1)(a)(ii)(A) and (B)

Clause 71

Section 126 of the Act permits a taxpayer to claim a foreign tax credit. Subsection 126(1) sets out the rules for claiming the credit in respect of foreign non-business income tax, that is, the foreign taxes imposed on investment income and other categories of foreign source non-business income. A credit in respect of foreign taxes on business income is provided

under subsection 126(2). Neither credit may exceed the Canadian tax otherwise payable in respect of the foreign source income. Canadian tax otherwise payable on foreign source income is determined by reference to the ratio of the foreign source income to total income.

Where a corporation's foreign tax credit would be reduced as a consequence of the deduction of a loss or other amount in computing income, new section 110.5 permits the corporation to add an amount to taxable income to the extent that the addition results in an increased foreign tax credit. The amendments to clauses 126(1)(b)(ii)(A) and (B) and (2.1)(a)(ii)(A) and (B) are strictly consequential on the introduction of section 110.5. They provide that the amounts added to taxable income under section 110.5 are to be included in total income for the purpose of the foreign tax credit calculation. These changes are effective for the 1985 and subsequent taxation years.

**Definition of
"credit union"**

Clause 72

Subclause 72(1)

ITA
127(3.2)(c)

Subsection 127(3.2) of the Act requires official agents of candidates (with some exceptions) in federal elections to deposit contributions for the candidates in certain types of financial institutions. The amendment to paragraph 127(3.2)(c) is of a housekeeping nature and is effective on Royal Assent to the enacting legislation. The existing paragraph 127(3.2)(c) reads as follows: "a credit union *within the meaning assigned by subsection 137(6)*". The italicized words which are being deleted are unnecessary since the definition of "credit union" in subsection 248(1) is applicable for all purposes of the Act.

Investment Tax Credit

Subclauses 72(2) to (4)

ITA
127(6)

Subsections 127(6) to (12.2) of the Act provide the rules for determining the investment tax credit of a taxpayer. In addition to the amendments explained below, these subsections are being reorganized to set out more clearly the rules for determining the investment tax credit in respect of the purchase of qualified properties and expenditures on research and development.

Subsection 127(6) of the Act allows a cooperative corporation to reduce its liability to remit tax withheld from patronage dividends paid in a particular taxation year by the amount of its investment tax credit at the end of the preceding taxation year. However, the investment tax credit for a year can be carried back to the preceding taxation year. The amendments to this subsection ensure that the amount which can be applied against the tax withheld on patronage dividends is limited to the investment tax credit that was in fact earned before the end of the preceding year. These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 72(5)

ITA
127(7) to (9)

Subsections 127(7) and (8) provide, respectively, for the allocation of investment tax credits of trusts and partnerships to the beneficiaries or partners, as the case may be. The amendments to these subsections are strictly consequential on the amendment to subsection 127(9) explained below.

Subsection 127(9) as amended includes the principal definitions necessary for determining the amount of the investment tax credit of a taxpayer. These definitions are currently found in subsections 127(9), (10) and (10.1). In addition, a new definition of “specified percentage” is introduced to provide the relevant rates for calculating investment tax credit in different circumstances. These rates are currently found in subsections 127(9) and (11.1). These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 72(6)

ITA
127(10) to (10.4)

Subsections 127(10) to (10.5) of the Act are repealed and replaced by subsections 127(10) to (10.4). New subsection 127(10) replaces current subsection 127(10.1) which allows the Minister of National Revenue to obtain advice as to whether a particular property is a “certified property” as defined in new subsection 127(9). New subsection 127(10.1) replaces existing paragraph 127(9)(d.4) which provides for an additional investment tax credit for Canadian-controlled private corporations in certain circumstances. New subsection 127(10.2) replaces existing subsection 127(10.3) which defines the “expenditure limit” in respect of which a Canadian-controlled private corporation can receive the additional investment tax credit. New subsection 127(10.3) replaces the current subsection 127(10.4) which provides rules for the sharing of the “expenditure limit” by a group of associated Canadian-controlled private corporations. New subsection 127(10.4) replaces subsection 127(10.5) which allows the Minister of National Revenue to allocate the “expenditure limit” among a group of associated Canadian-controlled private corporations who have failed to do so. These amendments are applicable to the 1985 and subsequent taxation years.

Subclause 72(7)

ITA
127(11) to (11.2)

The amendments to subsection 127(11) of the Act, applicable to the 1985 and subsequent taxation years, are strictly consequential on the amendments to subsection 127(9) explained above. New subsection 127(11.1) replaces present subsection 127(11.2) which provides special rules for determining the capital cost of property for the purpose of the definition of “investment tax credit”.

Subclause 72(8)

ITA
127(12.1) and (12.2)

The amendments to subsections 127(12.1) and 127(12.2) of the Act, applicable to the 1985 and subsequent taxation years, are strictly consequential on the amendments to subsection 127(9) explained above.

Subclause 72(9)

This sets out the effective date for the amendments to section 127 of the Act.

**Refundable Investment
Tax Credit**

Clause 73

Subclause 73(1)

ITA
127.1(2)(a)

Section 127.1 of the Act provides for the refund of a portion of unused investment tax credits earned in the period commencing on April 20, 1983 and ending on April 30, 1986. The refundable portion, referred to as the “refundable investment tax credit”, is defined in subsection 127.1(2). The general rate of the refund is 20% but it is increased to 40% for individuals and for those Canadian-controlled private corporations which meet certain requirements. Paragraph 127.1(2)(a) sets out the test for determining whether a Canadian-controlled private corporation qualifies in a taxation year for the 40% rate of refund in respect of unused investment tax credits. The test is intended to ensure that to qualify for the 40% refund, a corporation must be a Canadian-controlled private corporation throughout the year and the aggregate of its taxable income for its preceding taxation year and the taxable incomes of all corporations with which it was associated in the year for their preceding taxation years must not exceed \$200,000 – that is, the aggregate of their business limits for those years. However, the existing wording needs to be clarified to ensure that the taxable incomes and business limits of corporations associated with a newly-formed corporation are taken into account in determining whether the new corporation is entitled to the 40% refund rate. Accordingly, paragraph 127.1(2)(a) is being amended for the 1985 and subsequent taxation years to ensure that the associated corporation aspect of the rule will apply to a new corporation in respect of its first taxation year where it is associated with one or more other corporations at any time in that year.

Subclause 73(2)

ITA
127.1(2)(d)

Paragraph 127.1(2)(d) of the Act sets out the amounts included in computing a taxpayer’s investment tax credit for a taxation year that are to be taken into account in computing the taxpayer’s “refundable investment tax credit” for the same taxation year. The amendments to this paragraph are strictly consequential on the amendments to subsection 127(9) which are explained in the commentary on the amendments to that provision and are applicable to the 1985 and subsequent taxation years.

Subclause 73(3)

This sets out the effective date for the amendments to section 127.1 of the Act.

Refundable Dividend Tax on Hand

Clause 74

Subclause 74(1)

ITA
129(4)(a)(ii)

The investment income of a corporation is taxed at the full corporate rate. A portion of the tax on such income (referred to as “refundable dividend tax on hand”) is refundable to Canadian-controlled private corporations under section 129 of the Act when dividends are paid. Under existing subparagraph 129(4)(a)(ii), the income from real property of a corporation, other than a Canadian-controlled private corporation, is specifically excluded from the definition of “Canadian investment income”. However, since only Canadian-controlled private corporations may include amounts in refundable dividend tax on hand in respect of Canadian investment income for taxation years commencing after November 12, 1981, this exclusion is no longer necessary. This amendment deletes the unnecessary reference applicable to taxation years commencing after November 12, 1981.

Subclause 74(2)

ITA
129(4.3)

One of the amounts included in computing net investment income for the purposes of determining the “refundable dividend tax on hand” of a Canadian-controlled private corporation is the amount of taxable capital gains minus allowable capital losses realized by such a corporation. However, gains or losses that accrued on a particular property of a corporation while it was not a Canadian-controlled private corporation, an investment corporation, a mortgage investment corporation or a mutual fund corporation are generally excluded from this calculation. An exception to this exclusion is provided for “designated property” as defined in subsection 129(4.3). The entire taxable capital gain or allowable capital loss of a Canadian-controlled private corporation from the disposition of a designated property is included in the corporation’s net investment income for the purpose of computing refundable dividend tax on hand. The definition of “designated property” in subsection 129(4.3) is amended to adopt the meaning assigned to that term in paragraph 89(1)(b.1) of the Act. At the same time, paragraph 89(1)(b.1) is being amended to broaden the meaning of designated property. Accordingly, this amendment to subsection 129(4.3) effectively expands the meaning of designated property to include property acquired in a non-arm’s-length transaction provided that the property was a designated property of the corporation from which it was acquired. In addition, where shares are acquired by a corporation in a share exchange to which section 51, 85.1, 86 or 87 or subsection 85(1) applies and the shares given up were designated property, the acquired shares will be designated property of the corporation. This amendment is applicable after November 12, 1981.

Subclauses 74(3) and (4)

These set out the effective dates for the amendments to section 129 of the Act.

Mortgage Investment Corporations

Clause 75

Subclause 75(1)

ITA
130.1(4.1)

Section 130.1 of the Act sets out the special rules that apply to mortgage investment corporations. Such a corporation is essentially treated as a conduit in that its income may be flowed through to its shareholders and taxed in their hands rather than in the hands of the corporation. The flow-through for capital gains is achieved by allowing the corporation a deduction in computing its income in respect of its capital gains distributed to its shareholders by way of “capital gains dividends”. A capital gains dividend received by a shareholder is treated as a capital gain from the disposition of capital property rather than as dividend income. In such circumstances, therefore, the capital gains of a mortgage investment corporation are taxable to the shareholders as if they had realized the gains directly.

For a dividend to be treated as a capital gains dividend, the mortgage investment corporation must elect such treatment in prescribed form and manner at or before the time when the dividend is paid. Currently no procedure is provided for late-filing such an election. New subsection 130.1(4.1) adopts the provisions for capital gains dividends paid by mutual fund corporations as reflected in subsections 131(1.1) to (1.4) of the Act. Thus, a mortgage investment corporation will be allowed to late-file a capital gains dividend election upon the payment of the same penalty that applies to late-filed elections by mutual fund corporations. New subsection 130.1(4.1) is applicable with respect to dividends paid after 1984.

Subclause 75(2)

ITA
130.1(6)(f)(ii)(B)

Subsection 130.1(6) of the Act provides a definition of “mortgage investment corporation” for the purposes of section 130.1. One of the criteria for a corporation to come within the definition is that the cost amount to the corporation of certain of its assets (including deposits in credit unions) be at least 50% of the cost amount to the corporation of all its property. The amendment to clause 130.1(6)(f)(ii)(B) is of a housekeeping nature and is effective on Royal Assent to the enacting legislation. The existing clause reads as follows: “a credit union *within the meaning assigned by subsection 137(6)*”. The italicized words which are being deleted are unnecessary since the definition of “credit union” in subsection 248(1) is applicable for all purposes of the Act.

Subclause 75(3)

This sets out the effective date for the amendments to section 130.1 of the Act.

Mutual Fund Corporations

ITA
131(6)(c)

Clause 76

Section 131 of the Act sets out the special rules relating to mutual fund corporations. Paragraph 131(6)(c) defines “dividend refund” for the purposes of these rules to have the meaning assigned by subsection 129(1). Since subsection 129(1) defines “dividend refund” for the purposes of the Act, paragraph 131(6)(c) is redundant and is therefore repealed for the 1985 and subsequent taxation years.

Non-Resident-Owned Investment Corporations

ITA
133(7.3)

Clause 77

Section 133 of the Act provides rules for the taxation of non-resident-owned investment corporations on a basis that approximates the treatment that would apply if its non-resident shareholders had invested directly in Canada.

Subsections 133(7.3) to (7.6) set out the procedure for a non-resident-owned investment corporation to late-file the election under subsection 133(7.1) to have a dividend payable by it treated as a capital gains dividend. The procedure in these subsections is largely repetitive of the rules contained in subsections 131(1.1) to (1.4) which relate to the late-filing by a mutual fund corporation of an election to have a dividend payable by it treated as a capital gains dividend. Subsections 133(7.3) to (7.6) are being replaced by new subsection 133(7.3) which refers simply to the corresponding rules in subsections 131(1.1) to (1.4). As a result, those rules will apply for the purposes of the late-filing by a non-resident-owned investment corporation of the capital gains dividend election under subsection 133(7.1). This amendment is applicable on Royal Assent to the enacting legislation.

Non-Resident-Owned Investment Corporations

ITA
134

Clause 78

Section 134 of the Act provides that a non-resident-owned investment corporation is not to be treated as a Canadian corporation or private corporation except for certain limited purposes; namely, the rules relating to amalgamations, certain windings-up and branch tax. The section is amended, effective after 1984, to provide also that a non-resident-owned investment corporation is not to be treated as a taxable Canadian corporation except for the same specified purposes.

Cooperative Corporations

ITA
136(1)

Clause 79

Section 136 of the Act sets out the special rules that apply to cooperative corporations. Subsection 136(1) provides that a cooperative corporation is not to be treated as a private corporation except for purposes of certain specified provisions – including sections 123.4 and 123.5 which provided for the special corporate surtaxes that applied in 1982 and 1983. As a consequence of the repeal of sections 123.4 and 123.5, the reference to those sections is removed from subsection 136(1). In addition, a reference to

section 157 is added to the exceptions listed in subsection 136(1) so that a cooperative corporation will be treated as a private corporation for the purposes of establishing whether it qualifies under the rule that permits certain Canadian-controlled private corporations to pay the balance of tax payable for a taxation year three months rather than two months after the end of the taxation year. These amendments are applicable to the 1985 and subsequent taxation years.

Credit Unions

Clause 80

ITA
137(7)

Section 137 of the Act sets out the special rules that apply to credit unions. Subsection 137(7) provides that a credit union is not to be treated as a private corporation except for the purposes of certain provisions – including sections 123.4 and 123.5 which provided for the special corporate surtaxes that applied in 1982 and 1983. As a consequence of the repeal of sections 123.4 and 123.5, the reference to those sections is removed from subsection 137(7). In addition, a reference to section 157 is added to the exceptions listed in subsection 137(7) so that a credit union will be treated as a private corporation for the purposes of establishing whether it qualifies under the rule that permits certain Canadian-controlled private corporations to pay the balance of tax payable for a taxation year three months rather than two months after the end of the taxation year. These amendments are applicable to the 1985 and subsequent taxation years.

Deposit Insurance Corporations

Clause 81

ITA
137.1(3)(a)

Subclause 81(1)

Section 137.1 of the Act provides special rules for determining the income of a deposit insurance corporation and its member institutions.

Paragraph 137.1(3)(a) provides that a deposit insurance corporation may deduct certain losses sustained by it on the disposition of bonds, debentures, mortgages, hypothecs, notes or other similar obligations. At present this paragraph would permit a deposit insurance corporation to deduct a loss sustained by it on a disposition of such debt obligations issued by a member institution. This is inconsistent with the general rule in section 137.1 that denies a deduction to a deposit insurance corporation in respect of any assistance provided by it to a member institution regardless of the form that the assistance takes. It is also inconsistent with paragraph 137.1(3)(c) which denies an investment reserve to a deposit insurance corporation in respect of a debt obligation issued by a member institution. This amendment, applicable to the 1983 and subsequent taxation years, prevents the deduction by a deposit insurance corporation of losses sustained by it on the disposition of a debt obligation issued by a member institution.

Subclause 81(2)

ITA
137.1(4)(e)

Paragraph 137.1(4)(e) of the Act provides that a bad debt deduction under paragraph 20(1)(p) cannot be claimed by a deposit insurance corporation in respect of debts owing to it by any of its member institutions. However, where the bad debt owing from the member institution has previously been included in computing the income of the deposit insurance corporation, such as where the debt represents unpaid interest on a loan, it is appropriate that a deduction be allowed to the deposit insurance corporation. The amendment to paragraph 137.1(4)(e), applicable to the 1983 and subsequent taxation years, will permit a deposit insurance corporation to claim a deduction for a year in respect of bad debts of a member institution that have been included in computing its income for the year or a preceding year.

Subclause 81(3)

This sets out the effective date for the amendments to section 137.1 of the Act.

Registered Retirement
Savings Plans

Clause 82

Subclause 82(1)

ITA
146(5.4)(a)

Section 146 of the Act deals with registered retirement savings plans (RRSPs). Paragraph 146(5.4)(a) defines the expression “qualified farm property” of a taxpayer for purposes of the special deduction allowed for contributions to a registered retirement savings plan in respect of taxable capital gains from the disposition of such property. The paragraph is amended to provide that a “replacement property” for a qualified farm property will itself be recognized as a qualified farm property. A replacement property is one in respect of which the taxpayer elects to have the “rollover” replacement property rules of subsection 13(4) or 44(1) apply. This election would be available, for example, where a person sells a farm and invests in another farm. As well, the definition of qualified farm property has been expanded to include a share of a family farm corporation or an interest in a family farm partnership where a taxpayer has transferred his qualified farm property to the corporation or partnership. The qualified farm property of the taxpayer, or the replacement property therefor, must comprise all or substantially all of the assets of the corporation or partnership. These amendments are applicable to the 1984 and subsequent taxation years.

Subclause 82(2)

ITA
146(8.3)

Under section 146 of the Act, a taxpayer may make a deductible contribution to his spouse’s registered retirement savings plan. However, where such a plan is de-registered in a year, subsection 146(8.3) requires the amount of any deductible contributions made to the plan by the taxpayer in the year or the two immediately preceding years to be included in the taxpayer’s income

rather than in his spouse's income. There are circumstances, for example where the RRSP has sustained losses on its investments, where the value of the assets in an RRSP are less than amounts contributed to it. This subsection is amended to clarify that where the amount that would otherwise be required to be included in computing the income of the spouse as a result of the de-registration of the plan is less than the amount of the deductible contributions made by the taxpayer in the relevant years, only the lesser amount is to be included in the taxpayer's income. This amendment is effective with respect to registered retirement savings plans that are de-registered after February 15, 1984.

Subclauses 82(3) and (4)

These set out the effective dates for the amendments to section 146 of the Act.

Life Insurance

Clause 83

Section 148 of the Act sets out the rules governing the tax treatment of life insurance policies and certain annuities.

Subclause 83(1)

ITA
148(2)(b)

Paragraph 148(2)(b) of the Act provides the rule that treats the owner of an annuity contract (other than a life annuity contract entered into before November 13, 1981) as having disposed of the contract on his death or on the death of the annuitant under the contract. The amendment to this paragraph provides that this rule will not apply where the contract is a "prescribed annuity contract". The meaning of prescribed annuity contract is set out in section 304 of the *Income Tax Regulations*. This amendment is applicable with respect to deaths occurring in taxation years commencing after 1982 – the effective date in respect of which the rules relating to prescribed annuity contracts were first introduced.

Subclause 83(2)

ITA
148(9)(a)(iv)

Paragraph 148(9)(a) of the Act contains the definition of "adjusted cost basis" for annuities and life insurance policies. Subparagraph 148(9)(a)(iv) increases the adjusted cost basis of a life insurance policy by the amount of any policy loan repayments except to the extent that such repayments were deductible in computing income by virtue of paragraph 20(1)(hh). This amendment is strictly consequential on the transfer of the deduction for policy loan repayments from paragraph 20(1)(hh) to new paragraph 60(s). This amendment is applicable to the 1982 and subsequent taxation years.

Subclause 83(3)

ITA
148(9)(c)

Paragraph 148(9)(c) defines the term "disposition" in relation to an interest in a life insurance policy. The amendment to this paragraph ensures that

where the insured under an exempt life insurance policy is totally and permanently disabled, the exercise of a right to convert the policy into an annuity contract will not constitute a disposition of the policy. Thus the conversion will not give rise to taxation. This amendment is applicable with respect to transactions or events occurring after December 1, 1982.

Subclauses 83(4) and (5)

ITA
148(9)(d) and (e.3)

Paragraph 148(9)(d) of the Act defines “life insurance policy” and “relevant authority” by reference to definitions contained in subsection 138(12). A new definition of “life insurance policy” is being added to subsection 248(1) for all purposes of the Act. Therefore the definition of “life insurance policy” in paragraph 148(9)(d) is being deleted.

The definition “relevant authority” is being reenacted and placed in proper alphabetical order within the subsection. These amendments are of a housekeeping nature and will be effective on Royal Assent to the enacting legislation.

Subclauses 83(6) to (8)

These set out the effective dates for the amendments to section 148 of the Act.

Exempt Corporations

ITA
149(10)(b)

Clause 84

Subsection 149(10) of the Act sets out rules that apply when a corporation ceases to be exempt from tax under Part I of the Act. Paragraph 149(10)(b) treats the corporation as having disposed of its property at fair market value immediately before ceasing to be tax-exempt and as having reacquired the property at that value immediately after ceasing to be tax-exempt. An exception is made in that paragraph for “property described in any of paragraphs 59(2)(a) to (e)”. That reference is being changed to “Canadian resource property or a foreign resource property” as a consequence of the amendments to the definition of Canadian resource property to include property acquired before 1972. This change is applicable to taxation years commencing after 1984.

Returns

ITA
150(1)(d)

Clause 85

Subclause 85(1)

Section 150 of the Act sets out the requirements relating to the filing of tax returns. Where a person required by paragraph 150(1)(d) to file a return for a taxation year on or before April 30 of the next year is unable to do so, his guardian, curator, tutor, committee or other legal representative is required to file the return on his behalf. This paragraph is amended to delete the

references to “curator” and “tutor” which are unnecessary since these persons are legal representatives. This amendment is applicable on Royal Assent to the enacting legislation.

Subclause 85(2)

ITA
150(4)

Subsection 150(4) of the Act sets forth a special rule applicable to the year of death of a sole proprietor or partner. This provision allows the legal representative of the deceased to file a separate return with respect to his income from a business for the period commencing immediately after the close of the last fiscal period of the business or partnership and ending at the time of his death. Currently the Act does not expressly allow for any deductions in computing taxable income for the purposes of that separate return. Subsection 150(4) is amended to allow deductions in computing the deceased's taxable income on the separate return for personal exemptions, charitable donations and the \$1,000 investment and pension income deductions. New section 114.2 provides that these deductions, other than for personal exemptions, may be claimed on a separate return only to the extent that they are not otherwise claimed in another return of the deceased's income for the year. This amendment is applicable to the 1985 and subsequent taxation years.

Subclause 85(3)

This sets out the effective date for the amendment to subsection 150(4) of the Act.

Assessments

Clause 86

Subclause 86(1)

ITA
152(1)(b)

Section 152 of the Act sets out the provisions relating to assessments. Paragraph 152(1)(b) requires the Minister of National Revenue, in assessing tax for a year, to make a determination of the amount of tax that is deemed to have been paid by a taxpayer under certain provisions of the Act, such as the child tax credit. In the absence of such a determination, a taxpayer would not be entitled to object or appeal in respect of such amounts. The amendment to paragraph 152(1)(b) adds a reference to two other provisions – subsection 120.1(4) which deems tax to have been paid under the forward-averaging provisions and subsection 164(6) which deems an amount to have been paid on account of the tax of the estate of a deceased taxpayer in certain circumstances relating to the disposition of capital property by the estate. This amendment applies to the 1983 and subsequent taxation years.

Subclause 86(2)

ITA
152(1.1)

Subsection 152(1.1) of the Act provides that where the Minister of National Revenue does not agree with the amount of any reported loss, he is required

at the taxpayer's request to make a determination of the amount of the loss. This determination is binding on the taxpayer, subject to available rights of objection and appeal. The amendment to subsection 152(1.1) extends the ambit of the rules governing loss determinations to entitle a taxpayer to have a determination made where the Minister ascertains the taxpayer's loss for the year whether or not the taxpayer has reported a loss in his tax return for that year. This amendment applies on Royal Assent to the enacting legislation.

Subclause 86(3)

This sets out the effective date for the amendment to paragraph 152(1)(b) of the Act.

Withholding of Tax

Clause 87

Section 153 of the Act authorizes the withholding of tax from any of the payments described in paragraphs 153(1)(a) to (n). The person making the payment is required to remit any tax so withheld to the Receiver General on behalf of the payee. The amount of tax to be deducted or withheld is determined in Part I of the *Income Tax Regulations*.

Subclause 87(1)

ITA
153(1)(d)

Paragraph 153(1)(d) of the Act requires that tax be withheld from payments upon or after the death of an officer or employee to a widow or other person in recognition of the service of the officer or employee. The amendment to this paragraph, applicable to the 1985 and subsequent taxation years, replaces this requirement with a requirement that tax be withheld from the payment of a death benefit. This amendment is consequential on the amendment to the definition of "death benefit" in subsection 248(1) which replaces the references in that definition to "widow" with references to "surviving spouse". The amended paragraph 153(1)(d) is narrower in scope than the existing paragraph 153(1)(d) to reflect the fact that a payment or portion of a payment upon or after the death of an employee in recognition of the employee's service in an office or employment may be exempt from taxation if it is not a "death benefit" as defined in subsection 248(1) of the Act.

Subclause 87(2)

ITA
153

New paragraph 153(1)(o), effective on Royal Assent to the enacting legislation, is added to authorize tax to be deducted from payments described in paragraph 115(2)(c.1) of the Act which include signing bonuses and similar payments received by a non-resident for services to be performed in Canada.

Subclause 87(3)

This sets out the effective date for the amendment to paragraph 153(1)(d) of the Act.

Instalment Requirements for Corporations

Clause 88

Subclauses 88(1) and (3)

ITA
157(1)

Section 157 of the Act sets out the required payment dates for corporate income tax instalments and for any balance of corporate income tax payable.

Subsection 157(1) specifies the time for payment of a corporation's tax instalments for a taxation year. At present, a corporation is ordinarily required to pay tax instalments at the end of each month for the first 12 months during the 15-month period ending three months after the close of a taxation year and must pay the balance of its tax payable for the year by the last day of the 14th month of the period. Certain Canadian-controlled private corporations are allowed to pay the balance of their tax owing on or before the last day of the 15-month period.

The 15-month period referred to in the existing legislation contemplates the usual case where the corporation's taxation year is a full 12 months. The current wording is inappropriate for corporations with taxation years of less than 12 months. To cover both of these cases, subsection 157(1) is amended to provide that a corporation's instalment payments are to be made on or before the last day of each month of its taxation year. There is no change in the methods for determining the amounts of the instalment payments.

A further change to subsection 157(1) clarifies that the balance of the tax payable by a corporation two or three months after the end of a taxation year is the balance of its Part I tax liability for the year.

These amendments are applicable to the 1986 and subsequent taxation years.

Subclause 88(2)

ITA
157(1)(b)(i)

Subparagraph 157(1)(b)(i) of the Act is amended, applicable to the 1985 and subsequent taxation years, to revise the test for determining whether a corporation qualifies for paying the balance of its tax payable three months after the end of its taxation year rather than two months after the end of the year. Under the new test, the corporation must satisfy two requirements.

First, the corporation must be a Canadian-controlled private corporation throughout the year and the aggregate of its taxable income for its preceding taxation year and the taxable incomes of all corporations with which it was associated in the year, for their taxation years ending in the calendar year preceding the calendar year in which the corporation's current taxation year ended, must not exceed the aggregate of their business limits for those years.

This requirement is similar to the one stipulated in the existing legislation but ensures that the test will also apply to a new corporation in respect of its first taxation year where it is associated with another corporation in that year.

Second, the corporation must have earned income in the year or the preceding year in respect of which it was eligible to claim the small business deduction. This reinstates a test contained in this provision before its amendment in Bill C-7, which inadvertently omitted this requirement.

Subclause 88(4)

ITA
157(2)

Subsection 157(2) allows a cooperative corporation or credit union to make only one payment of the whole of its tax estimated to be payable for a taxation year, rather than having to make instalments, provided that its taxable income for the year is estimated by it to be not more than \$10,000. This subsection is amended so that the requirement to pay instalments will apply except where the actual tax for the year or the immediately preceding year is not more than \$10,000. In that event the total tax payable for the year must be paid at the appropriate balance due date – either two or three months after the end of the year. This amendment is applicable to the 1986 and subsequent taxation years.

Subclause 88(5)

ITA
157(3)

Subsection 157(3) allows private corporations, mutual fund corporations and non-resident-owned investment corporations to reduce their monthly instalment payments by 1/12 of their dividend refunds, capital gains refunds or allowable refunds for the year. The amendment to subsection 157(3) is consequential on the amendments to subsection 157(1) relating to the time requirements for making instalments. The monthly instalments are now being described by reference to the month in the taxation year in which they are payable instead of by reference to a 15-month period ending three months after the end of the taxation year. There is no change to the instalment payment reductions provided by subsection 157(3). This amendment is applicable to the 1986 and subsequent taxation years.

Subclauses 88(6) and (7)

These set out the effective dates for the amendments to section 157 of the Act.

Payment of Remainder

Clause 89

ITA
158

Subsection 158(1) of the Act provides that assessed taxes, interest and penalties are payable within 30 days of the mailing of the notice of assessment whether or not the taxpayer disputes the assessment. Under the existing law, collection proceedings may be taken after the 30-day period by

Revenue Canada to recover unpaid amounts even if the taxpayer has objected to or appealed from the assessment. The amendment to section 158 provides that amounts assessed are payable forthwith upon assessment. This amendment should be considered in relation to new section 225.1 which provides that, even though an amount is payable, collection proceedings may not be taken before the time for filing a notice of objection to an assessment has expired. The only exception to this rule is where collection is in jeopardy as described in new section 225.2. This amendment is applicable with respect to assessments mailed after Royal Assent.

Subsection 158(2) of the Act authorizes the Minister to direct that taxes, interest and penalties be payable forthwith where in his opinion the taxpayer was attempting to avoid the payment of taxes. This subsection is repealed. New section 225.2 will permit the Minister to direct a taxpayer to pay amounts assessed forthwith where it may reasonably be considered that collection thereof would be jeopardized by delay in enforcing payment. Upon making such a direction the Minister may immediately commence collection proceedings.

Payments on Behalf of Others

Clause 90

Subclause 90(1)

ITA
159(1), (2) and (3)

Subsection 159(1) of the Act requires every person required to file an income tax return for another person for a taxation year to pay, within 30 days of the assessment of the return, all amounts assessed to the extent of the value of any property of the other person that he has or had in his possession or control after the taxation year. This subsection is amended to remove the 30-day period and require the payment of such amounts forthwith upon assessment. While the liability is established immediately, under new section 225.1 collection proceedings may not be taken by Revenue Canada before the time for filing a notice of objection to the assessment has expired. The only exception to this rule is where collection is in jeopardy as described in new section 225.2. This amendment is applicable with respect to assessments mailed after Royal Assent.

Subsection 159(2) of the Act provides that executors, receivers and certain other persons who control the property of someone else must, before distributing such property obtain a certificate from the Minister of National Revenue stating that there are no unpaid taxes, interest or penalties assessed under the Act for which the controlled property might afford payment or that security has been provided therefor. Subsection 159(2) is amended to apply where any such person is administering, winding up, controlling or otherwise dealing with a property, business or estate of another person. (In such circumstances, subsection 150(3) requires the responsible representative to file a tax return on behalf of the other person.) In addition, subsection 159(2) is amended to require the responsible representative to obtain a certificate for all amounts for which a taxpayer is or may become liable

under the Act, whether or not assessed by the Minister at the time of distribution, and for which the responsible representative is liable in his capacity as such.

This subsection is further amended to add a consequential reference to new subsection 220(4.1) which requires the Minister to accept security where a taxpayer has objected to or appealed from an assessment.

Subsection 159(3) imposes personal liability on the person required to obtain a clearance certificate under subsection 159(2) who fails to do so before distributing property under his control. Subsection 159(3) is amended to limit the personal liability of a responsible representative to the value of the property distributed and to authorize the Minister to assess the amount of such liability.

The amendments to subsections 159(1), (2) and (3) are applicable on Royal Assent to the enacting legislation.

Subclause 90(2)

ITA
159(7)

Subsections 159(4) and (5) of the Act permit the tax payable as a consequence of becoming a non-resident or of death to be paid by instalments. Where an election is made under those provisions, interest is payable under subsection 159(7) at a prescribed rate on the deferred taxes. Subsection 159(7) is amended to conform the reference to a prescribed rate of interest to the format of such references in other provisions of the Act. This amendment is applicable on Royal Assent to the enacting legislation.

Subclause 90(3)

This sets out the effective date for the amendment to subsection 159(1) of the Act.

Interest on Unpaid Taxes

Clause 91

Subclause 91(1)

ITA
161(1) and (2)

Section 161 of the Act relates to interest on unpaid taxes and on late or deficient tax instalments. A clarifying amendment is being made by clause 116 to the effective date of a recent amendment to subsection 161(1) of the Act. For more detail see the commentary under that clause. Subsection 161(2) is amended, applicable on Royal Assent to the enacting legislation, so that the references therein to a prescribed rate of interest conform to the format of such references in other provisions of the Act.

Subclause 91(2)

ITA
161(4.1)(a)

Subsection 161(4.1) of the Act limits the interest charged on deficient instalments of a corporation for a taxation year to interest on the instal-

ments that were not paid, but which should have been paid, based on the corporation's actual tax payable for the year. For that purpose, the corporation's tax payable for the year is computed without reference to section 123.3 which provided for a corporate surtax in 1980 and 1981. As a consequence of the repeal of section 123.3, the reference to that section is deleted from subsection 161(4.1), effective on Royal Assent to the enacting legislation.

Subclause 91(3)

ITA
161(7)(b)

Subsection 161(7) of the Act provides that where the tax payable for a year is reduced as a consequence of the carryback of a loss, tax credit or other amount from a subsequent taxation year, interest on any unpaid tax for the earlier year is calculated, without regard to the amount carried back, for the period ending on the later of the day on which the tax return for the subsequent year was required to be filed and the day on which the return was actually filed. Paragraph 161(7)(b) is amended to provide that interest will be charged only until the day on which the taxpayer's return for the subsequent year is filed. Where, however, the taxpayer files his prescribed form claiming a carryback at a later date or the Minister of National Revenue later accedes to the taxpayer's written request to reassess the earlier year, interest will be computed for the period ending on the day on which the form was filed or the request was made. This amendment applies where an amount is carried back from a taxation year ending after 1984.

Subclause 91(4)

This sets the effective date for the amendment to paragraph 161(7)(b) of the Act.

Understatement of Income

Clause 92

ITA
163(2.1)

Subsection 163(2) of the Act imposes a penalty where a taxpayer has made a false statement or omitted information on a return. The penalty is calculated by reference to the amount by which the taxpayer understated his income. Subsection 163(2.1) defines "understatement of income for a year" for this purpose. The amendment to this subsection changes the expression it defines from "understatement of income for a year" to "understatement of income" in order to correspond exactly to the manner in which the term is used in subsection 163(2). This amendment is applicable on Royal Assent to the enacting legislation.

Refunds

Clause 93

Subclause 93(1)

ITA
164(1)(a)

Paragraph 164(1)(a) of the Act authorizes the Minister, on or after mailing the notice of assessment for a year, to refund any overpayment of tax for the

year. As amended, this paragraph, in conjunction with the amendment made to the definition of “overpayment” in subsection 164(7), will authorize the Minister to refund interest and penalties as well as any taxes that have been overpaid under Part I of the Act. This amendment is applicable on Royal Assent.

Repayments on Objection and Appeals
Collection in Jeopardy
ITA
164(1.1), (1.2) and (1.3)

Subclause 93(2)

New subsection 164(1.1) sets out the rules under which the Minister of National Revenue will repay taxes, interest and penalties in controversy. The taxpayer is required to apply in writing for any such repayment. The circumstances in which a repayment will be made are either where a taxpayer has objected to an assessment and the Minister has not within 120 days thereafter confirmed or varied the assessment or where a taxpayer has appealed an assessment to the Tax Court of Canada or directly to the Federal Court – Trial Division. It should be noted that section 164 distinguishes between repayments and overpayments. The amount of the repayment provided for in this subsection is the assessed amount that is in controversy. Where the taxpayer has paid more than the amount assessed, the excess is referred to as an overpayment. This differs from a repayment and the rules relating to the refund of overpayments are separately provided for in subsection 164(1). This amendment is applicable with respect to notices of objection served after 1984 and to appeals instituted therefrom.

New subsection 164(1.2) allows the Minister to refuse to repay an amount in controversy or to surrender security where it may reasonably be considered that the eventual collection of the amount would be jeopardized. This is done by way of a direction and the Minister is required to notify the taxpayer of any such direction. Where the Minister makes such a direction the taxpayer has a right to appeal. This is provided in new subsection 164(1.3) which allows a taxpayer to use the procedures set out in new section 225.2 to apply for a judicial review of the Minister’s decision in that regard. These amendments are applicable to notices of objection served after 1984 and to appeals instituted therefrom.

Application to Other Taxes

ITA
164(2)

Subclause 93(3)

The French version of subsection 164(2) is amended to make a distinction between a refund of overpayment (“remboursement d’un paiement en trop”) and repayment of an amount in controversy (“remboursement d’une somme en litige”) as used in section 164. This amendment is applicable on Royal Assent.

Interest on Refunds and Repayments

ITA
164(3)

Subclause 93(4)

Subsection 164(3) of the Act provides that interest at a prescribed rate will be paid to a taxpayer on an overpayment of his Part I tax liability. It also provides that instead of being paid, such interest may be applied against

another tax liability of the taxpayer. The interest is computed for the period beginning on the latest of (i) the day the taxpayer's income tax return for the year was required to be filed, (ii) the day the return was filed and (iii) the day the overpayment arose and ending on the day the refund is made. The amendments to this subsection alter this period to provide for the payment of interest from the latest of the day the overpayment arose, the due date for filing the tax return where the taxpayer is an individual, the 120th day after the end of the taxation year where the taxpayer is a corporation and, where the taxpayer failed to file his tax return when required, the date the return was actually filed. These amendments apply to taxation years ending after 1984.

The existing provision is restricted to refunds of overpayments. The amendment to subsection 164(3) extends its application to repayments of amounts of tax in controversy. Where interest is to be paid in respect of a repayment of disputed tax, it is computed for the period beginning on the latest of (i) the day the income tax return for the year was required to be filed, (ii) the day the return was filed and (iii) in general terms, the day that an overpayment of tax would have arisen assuming that the amount of tax payable by the taxpayer for the year was the amount of tax not in controversy. This is illustrated in the following example.

Assume that an individual files his 1984 tax return on time (April 30, 1985) and declares his tax payable as \$30,000 of which \$23,000 is paid by that time. He pays the remaining \$7,000 on May 31, 1985. On July 31, 1985 his tax payable for the year is assessed at \$30,000. He serves a notice of objection in respect of the assessment claiming that his 1984 tax payable should only be \$20,000. The \$10,000 of tax in controversy would be repaid to him under subsection 164(1.1) pending a court judgement. The repayment will be considered to have arisen, to the extent of \$3,000 on April 30, 1985 and, to the extent of \$7,000 on May 31, 1985. Interest under subsection 164(3) would be computed from those dates to the date on which the repayment was made.

This part of the amendment to subsection 164(3) is applicable on Royal Assent.

Subclause 93(5)

ITA
164(3.1)(b)

Paragraph 164(3.1)(b) of the Act provides for the payment by a taxpayer of interest at a prescribed rate on any excess interest that had previously been paid to him by the Minister of National Revenue or applied by the Minister against another tax liability of the taxpayer. The amendment to this paragraph, applicable on Royal Assent to the enacting legislation, makes the reference to a prescribed rate of interest conform to the format of such references in other provisions of the Act.

Interest on Interest Repaid

Subclause 93(6)

ITA
164(4)

Prior to May 1, 1974 the prescribed rate of interest charged on deficient tax instalments was generally higher than the prescribed rate paid on the

refunds. Subsection 164(4) provided that in certain circumstances the higher prescribed rate was to be paid to compute the amount of interest to be paid on an overpayment of tax. Since the prescribed rate is now the same for all provisions of the Act, this subsection is no longer appropriate and is therefore repealed.

New subsection 164(4) of the Act requires a taxpayer to repay with interest the amount of any interest that had previously been paid to him, or applied by the Minister to another liability, pursuant to subsection 164(3) in respect of a repayment to which the taxpayer is subsequently determined not to be entitled. This new provision is applicable on Royal Assent.

Duty of Minister

Subclause 93(7) and (9)

ITA
164(4.1)

The French version of subsection 164(4.1) which relates to repayments is amended to correct certain inaccuracies. This amendment is applicable on Royal Assent.

Subclause 93(8)

ITA
164(4.1)(d) and (e)

Subsection 164(4.1) of the Act provides that where on the disposition of an appeal of an assessment of tax, interest or penalties a court has ordered the Minister of National Revenue to reassess, the Minister shall with all due dispatch make the reassessment, notwithstanding his intention to appeal the decision of the court. Under paragraph 164(4.1)(e) any overpayment resulting from the reassessment must be refunded, unless the taxpayer has directed the Minister in writing not to make the refund. Paragraphs 164(4.1)(d) and (e) of the Act are amended to provide that if a taxpayer does not wish to receive an immediate refund following a successful appeal he may direct the Minister not to reassess. This amendment applies after February 15, 1984.

Subclause 93(10)

ITA
164(5)

Subsection 164(5) of the Act provides that where the tax payable for a year is reduced as a consequence of the carryback of a loss, tax credit or other amount from a subsequent taxation year, interest payable to a taxpayer on any resulting overpayment of tax is to be calculated as if the overpayment had arisen on the later of the day on which the tax return for the subsequent year was required to be filed and the day on which the return was actually filed. The principal amendment to this subsection provides that interest will be computed on such overpayments from the day on which the taxpayer's return for the subsequent year is filed. Where, however, the taxpayer files his prescribed form claiming a carryback at a later date or the Minister of National Revenue later accedes to the taxpayer's written request to reassess the earlier year, interest will be computed for the period beginning on the day on which the form was filed or the request was made. Certain other amendments are being made to the French version of this subsection to

correct inconsistencies between the French and English versions. The amendments to this subsection apply where an amount is carried back from a taxation year ending after 1984.

Effect of Carryback

ITA
164(5.1)

Subclause 93(11)

New subsection 164(5.1) deals with the interest period in the case of a repayment resulting from a carryback. It provides that to the extent that a repayment under new subsection 164(1.1) or subsection 164(4.1) arises from the carryback of an amount from a subsequent year, such as a loss or an investment tax credit, interest is not payable for any period before the later of two specified dates. Those dates are (i) the due date for the return for the subsequent year and (ii) the date on which the return for the subsequent taxation year is filed. This new subsection is applicable on Royal Assent.

“Overpayment” Defined

ITA
164(7)

Subclause 93(12)

Subsection 164(7) of the Act defined “overpayment” for the purpose of determining the amount of the refund of taxes to which a taxpayer is entitled. The amendment to this subsection extends the definition to include overpayments of interest and penalties as well as any taxes paid under Part I of the Act. This amendment is applicable on Royal Assent.

Subclauses 93(13) to (18)

These set out the effective dates for the amendments to section 164 of the Act.

In Camera Hearings

ITA
179

Clause 94

Section 179 of the Act provides for an automatic entitlement to a hearing in camera in the Federal Court upon the request of the taxpayer. In keeping with the fundamental principle of freedom of the press now contained in the Canadian Charter of Rights and Freedoms, the taxpayer’s interests and those of the public at large must be considered in permitting in camera proceedings. Section 179 is amended to allow in camera hearings in the Federal Court, if the taxpayer establishes to the satisfaction of the Court that circumstances justify such a procedure. Section 16 of the Tax Court of Canada Act is also amended to clarify that the onus on the taxpayer is to justify that such proceedings are appropriate in the circumstances. The amendments are effective on Royal Assent to the enacting legislation.

**No Reasonable Grounds
for Appeal**

ITA
179.1

Clause 95

New section 179.1 provides a penalty where an appeal is groundless and was instituted for the purpose of deferring taxes. On the application of the Minister, the Tax Court of Canada or the Federal Court – Trial Division is

authorized to order the taxpayer to pay to the Receiver General an amount not exceeding 10% of the amount that was in controversy. The penalty is exigible only if the Court determines that there were no reasonable grounds for the appeal and that one of the main purposes of instituting or maintaining the appeal by the taxpayer was to defer the payment of an amount assessed. This provision also applies to cases where an appeal has been discontinued or dismissed without trial. The amendment is applicable to appeals from assessments objected to after 1984.

Appeals to Federal Court of Appeal

ITA
180(1)(a)

Clause 96

Section 180 of the Act sets out special rules for appeals to the Federal Court of Appeal from a refusal by the Minister of National Revenue to register a charity, retirement savings plan or certain other arrangements for purposes of the Act. The first amendment to paragraph 180(1)(a) adds to the actions which can be appealed, the decision of the Minister of National Revenue to designate or refuse to designate a registered charity as a charitable organization or foundation. This change is consequential on recent amendments to subsection 172(3) which provided registered charities with a right of appeal from such decisions. The second amendment deletes the reference to “profit sharing plan” in paragraph 180(1)(a) and thereby ensures that section 180 applies to a decision of the Minister of National Revenue to refuse to register, or to revoke the registration of, a profit sharing plan, retirement savings plan, education savings plan, home ownership savings plan or retirement income fund. The amendments to section 180 are applicable on Royal Assent to the enacting legislation.

Corporate Distributions Tax

ITA
181(2)(b)

Clause 97

Subsection 181(2) of the Act defines the term “preferred-earnings amount” of a corporation at the end of any taxation year for the purposes of the corporate distribution tax under Part II of the Act. The amendment to paragraph 181(2)(b) clarifies that only a Canadian-controlled private corporation eligible for the small business deduction under subsection 125(1) of the Act in a particular taxation year is required to add an amount in respect of that year in computing its preferred earnings amount. This amendment is applicable to taxation years commencing after 1982.

Interest on Corporate Distributions Tax

ITA
182(2) and (3)

Clause 98

Subsection 182(2) of the Act provides that where a corporation has failed to pay the corporate distributions tax under Part II of the Act when required, it shall pay interest thereon from the day on which the amount was required to be paid to the day of payment. The amendment to this subsection conforms the wording in this provision to the format of other similar provisions of the Act dealing with interest at a prescribed rate. This amendment is effective on Royal Assent to the enacting legislation.

Subsection 182(3) of the Act provides that certain provisions of Part I of the Act relating to returns, assessments, payments and appeals are applicable to Part II. This subsection is amended to add a reference to subsection 161(7) which provides the rules relating to the interest chargeable on any unpaid tax for a year where there has been a carryback of a loss or a tax credit from a subsequent taxation year. This amendment applies to amounts carried back from taxation years ending after May 9, 1985.

**Provisions Applicable
to Part III**

ITA
185(2) and (3)

Clause 99

Part III of the Act imposes a special tax on corporations that have made excessive elections in respect of capital dividends and capital gains dividends. Subsection 185(2) provides that where a corporation files a specified election in respect of a dividend and the Minister mails a notice of assessment in respect of the election, the corporation must pay, with interest, any unpaid tax or penalties so assessed within 30 days of the assessment whether or not an objection to or appeal from the assessment is outstanding. This subsection is amended to require the payment forthwith of any amounts so assessed. Collection action by Revenue Canada will, however, be subject to the restrictions introduced in new section 225.1.

Subsection 185(3) of the Act provides that certain provisions of Part I of the Act relating to returns, assessments, payments and appeals are applicable to this special tax. The amendment will make subsection 152(7) of the Act, which provides that the Minister is not bound by a return and information furnished by taxpayers, applicable to Part III.

The amendments are applicable after 1984.

**Part IV –
Tax on Dividends**

ITA
186(3)

Clause 100

Part IV of the Act imposes a 25% refundable tax on certain dividends received by private corporations and certain other corporations. Subsection 186(3) of the Act defines the term “dividend refund” for purposes of Part IV as having the meaning assigned by subsection 129(1) of the Act. Since subsection 129(1) defines a dividend refund for all purposes of the Act, subsection 186(3) is redundant and is repealed. This amendment is applicable on Royal Assent to the enacting legislation.

**Part IV –
Tax on Dividends**

ITA
187(2) and (3)

Clause 101

Subsection 187(2) of the Act requires interest at a prescribed rate to be paid on any overdue refundable tax on dividends provided under Part IV of the Act. The amendment to this subsection, applicable on Royal Assent to the enacting legislation, makes the reference to a prescribed rate of interest conform to the format of such references in other provisions of the Act.

Subsection 187(3) of the Act provides that certain provisions of Part I of the Act relating to returns, assessments, payments and appeals are applicable to Part IV. This subsection is amended to add a reference to subsection 161(7) of the Act which provides the rules relating to the computation of interest chargeable on any unpaid tax for a year where there has been a carryback of a loss or a tax credit from a subsequent taxation year. This amendment applies to amounts carried back from taxation years ending after May 9, 1985.

**Part V –
Tax in Respect of Registered
Charities**
ITA
189(7) and (8)

Clause 102

Part V of the Act imposes a special tax in respect of certain transactions entered into by charitable foundations and where the registration of a charity is revoked. New subsection 189(7) provides that a taxpayer who is liable to pay this special tax is also liable to pay interest thereon at the prescribed rate in respect of late payments. The new subsection is applicable in respect of interest payable for the period after May 9, 1985.

New subsection 189(8) (formerly subsection 189(7)) sets forth the provisions of Part I of the Act relating to returns, assessments, interest, penalties, objections and appeals that are applicable to the special tax imposed in Part V. This provision is amended to remove the reference to subsection 161(1) of the Act as a consequence of the introduction of new subsection 189(7). This amendment is applicable after May 9, 1985.

**Part VII –
Share-Purchase Tax Credit**

Clause 103

Subclause 103(1)

ITA
192(2)(a)(ii)

Part VII of the Act imposes a special refundable tax on corporations making share-purchase tax credit designations in respect of certain shares issued by them. This is an integral part of the mechanism by which certain investment tax credits earned by a corporation may be transferred to persons who acquire a new issue of qualifying shares. Subparagraph 192(2)(a)(ii) includes in the definition of a corporation's Part VII refund its investment tax credit for the year before claiming a Part VII refund for the year. The cross-references in this subparagraph are amended, for the 1985 and subsequent taxation years, to reflect the changes resulting from the reorganization of the investment tax credit provisions in section 127 of the Act.

Subclause 103(2)

ITA
192(10)

Subsection 192(10) of the Act provides that the amount of investment tax credit claimed against the Part VII tax liability of a corporation is considered to have been deducted by it under subsection 127(5) of the Act. The cross-reference in this subsection is amended, for the 1985 and subsequent taxation

years, to reflect the changes resulting from the reorganization of the investment tax credit provisions in section 127 of the Act.

Subclause 103(3)

This sets out the effective date for the amendments to section 192 of the Act.

**Part VII –
Share-Purchase Tax Credit**

Clause 104

Subclause 104(1)

ITA
193(3)

Subsection 193(3) of the Act provides for the payment of interest at a prescribed rate on overdue refundable Part VII tax payable by corporations in respect of share-purchase tax credits flowed out to investors. The amendment to this subsection, applicable on Royal Assent to the enacting legislation, makes the reference to a prescribed rate of interest conform to the format of such references in other provisions of the Act.

Subclause 104(2)

ITA
193(4)

Subsection 193(4) of the Act provides that in determining the interest which must be paid on overdue Part VII tax, the amount of such tax payable is reduced by any Part VII refund to which the corporation is entitled for the year. The amendment to this subsection replaces the reference to a 14-month period ending two months after the taxation year with a reference to a period commencing on the first day of a taxation year and ending two months after the end of the year. This change accommodates taxation years shorter than 12 months. This amendment is applicable to the 1986 and subsequent taxation years.

Subclause 104(3)

This sets out the effective date for the amendment to subsection 193(4) of the Act.

**Part VIII –
Scientific Research Tax Credit**

Clause 105

ITA
194(2)(a)(ii)(A)

Part VIII of the Act imposes a refundable tax on corporations in respect of scientific research tax credits which it makes available to investors. Subparagraph 194(2)(a)(ii) includes in the definition of a corporation's "Part VIII refund" one-half of its scientific research expenditures in the year and the preceding year to the extent that they earned investment tax credits and were not deducted by the corporation. The cross references in clause 194(2)(a)(ii)(A) are amended to reflect the changes resulting from the reorganization of the investment tax credit provisions in section 127 of the Act. These amendments are applicable to the 1985 and subsequent taxation years.

Clause 106

Subclause 106(1)

ITA
195(3)

Subsection 195(3) of the Act provides for the payment of interest at a prescribed rate on overdue refundable Part VIII tax payable by corporations in respect of scientific research tax credits flowed out to investors. The amendment to this subsection, effective on Royal Assent to the enacting legislation, makes the reference to a prescribed rate conform to the format of such references in other provisions of the Act.

Subclause 106(2)

ITA
195(4)

Subsection 195(4) of the Act provides that in determining the interest which must be paid on overdue Part VIII tax, the amount of such tax payable for a year is reduced by any Part VIII refund to which the corporation is entitled for the year. The amendment to this subsection replaces the reference to the 14-month period ending two months after the taxation year to a reference to the period commencing on the first day of a taxation year and ending two months after the end of the year. This change accommodates taxation years shorter than 12 months and is applicable to the 1986 and subsequent taxation years.

Subclause 106(3)

This sets out the effective date for the amendment to subsection 195(4) of the Act.

Clause 107

ITA
202(5)

Part X of the Act imposes a special tax on non-qualified investments made by deferred profit sharing plans and revoked plans. Subsection 202(5) of the Act requires a trust governed by a deferred profit sharing plan to pay interest at a prescribed rate in respect of insufficient payments of this tax before the beginning of the period when the taxpayer becomes liable to pay interest under subsection 161(1) of the Act on deficient payments. The wording of subsection 202(5) is clarified and made to conform with the wording of other provisions of the Act that require the payment of interest at a prescribed rate. This amendment is applicable on Royal Assent to the enacting legislation.

Clause 108

ITA
204.4(2)(a)(viii)(B)

Subsection 204.4(2) of the Act authorizes the Minister to accept for registration as registered investments for the purposes of Part X.2 applicants that meet certain criteria. One of the criteria requires that the applicant not hold certain types of bonds, debentures etc. issued by cooperatives or credit

unions. The amendment to clause 204.4(2)(a)(viii)(B) is of a housekeeping nature and is effective on Royal Assent to the enacting legislation. The existing clause refers to “a cooperative corporation or credit union (within the meanings assigned by sections 136 and 137)”. The reference to section 137, which is being deleted, is unnecessary since subsection 248(1) includes a definition of “credit union” for all purposes of the Act.

Part XII

Clause 109

Subclause 109(1)

ITA
208(1) and (1.1)

Part XII of the Act imposes a tax in respect of certain Crown royalties, taxes and lease rentals paid by a tax-exempt person who pays a royalty to any other person out of its income from a resource activity. This tax is designed to prevent the use of tax-exempt intermediaries to circumvent the provisions of the Act that disallow a deduction for these Crown charges. Since the petroleum and gas revenue tax (PGRT) is similar to such Crown charges and is not deductible in computing a taxpayer’s income by virtue of paragraph 18(1)(1.1), subsection 208(1) is amended to include the PGRT in the amounts on which the special Part XII tax is payable.

As a result of recent amendments to the Act, the processing of iron ore from the pellet stage to the prime metal stage is treated as manufacturing and processing rather than as a resource activity. Subsection 208(1) of the Act is amended to reflect this change. A further amendment clarifies that the tax applies only with respect to a royalty paid out of income attributed to the processing of tar sands to a stage not beyond the crude oil stage. The expression “specified stage”, which is used in the amended subsection 208(1) to limit the stage in production to which the revenue from the production is relevant in the calculation of the Part XII tax, is defined in new subsection 208(1.1).

The amendments to subsection 208(1) and the introduction of subsection 208(1.1) are applicable to the 1985 and subsequent taxation years.

Subclause 109(2)

ITA
208(4)

Subsection 208(4) of the Act provides that certain provisions of Part I of the Act relating to returns, assessments, interest, penalties, objections and appeals are applicable to the special tax imposed under Part XII. Subsection 161(2) provides for interest to be payable on unpaid or deficient instalments of tax. Part XII does not require any instalments of tax to be paid and, therefore, the reference in subsection 208(4) to subsection 161(2) is inappropriate. The amendment removes the reference to subsection 161(2) in subsection 208(4) for the 1985 and subsequent taxation years.

Subclause 109(3)

This sets out the effective date for new subsection 208(1.1) of the Act and the amendments to subsection 208(1) of the Act.

Clause 110

Subclause 110(1)

ITA
212(1)(h)(vi)

Section 212 of the Act provides for the deduction at source of what is generally referred to as the non-resident withholding tax from dividends, interest and certain other categories of payment to non-residents. Under paragraph 212(1)(h) certain pension benefits are subject to non-resident withholding tax. There is an exemption from the tax for pension payments that are reasonably attributable to services rendered by a non-resident person in taxation years during which he was not employed in Canada, or was only occasionally employed in Canada. The word “during” is ambiguous and is replaced by the word “throughout” to ensure that an exemption is confined to that portion of a pension that is attributed to those years throughout which the non-resident was not employed in Canada or was only occasionally employed in Canada. This amendment is applicable with respect to payments made after 1983.

Subclause 110(2)

ITA
212(1)(j.1)

Under paragraph 212(1)(j.1) of the Act a retiring allowance paid by an employer in Canada to a person not resident in Canada is subject to non-resident withholding tax only to the extent it is not transferred to a registered pension plan or a registered retirement savings plan of the non-resident. This paragraph is amended to also exclude from non-resident withholding tax such portion of a retiring allowance that is attributable to services rendered by the non-resident in years when he was not resident in Canada and throughout which he was not employed in Canada or was only occasionally employed in Canada. This brings the withholding requirements for retiring allowances into line with those for pension benefits paid to a non-resident. This amendment is applicable with respect to payments after 1983.

Subclause 110(3)

This sets out the effective date for the amendments to section 212 of the Act.

Clause 111

Subclause 111(1)

ITA
219(3)

Part XIV of the Act imposes a special tax, generally referred to as the “branch tax”, at a rate of 25% on the after-tax earnings of a Canadian branch of a non-resident corporation, subject to an allowance for investment in property in Canada. Subsection 219(3) of the Act provides that various provisions of Part I of the Act relating to returns, assessments, interest, penalties and objections are applicable to Part XIV. The amendment to subsection 219(3) adds a reference to Division J of Part I to allow assessments under Part XIV to be appealed to the Tax Court of Canada and the

Federal Court. This amendment is applicable on Royal Assent to the enacting legislation.

Subclause 111(2)

ITA
219(7)

Paragraph 219(7)(b) of the Act defines, for the purposes of Part XIV, “accumulated 1968 deficit”, “life insurance policy in Canada”, “maximum tax actuarial reserve” and “surplus funds derived from operations” by reference to definitions in subsection 138(12). A definition of “life insurance policy in Canada” by reference to subsection 138(12) is being added to subsection 248(1) for all purposes of the Act. Therefore the definition of that expression in paragraph 219(7)(b) is being deleted.

The other expressions defined in paragraph 219(7)(b) are being put into separate paragraphs but continue to refer to the meanings assigned to them by subsection 138(12).

The amendments are of a housekeeping nature and will be effective on Royal Assent to the enacting legislation.

**Reduced Part XIV Tax
Where a Treaty Applies**

ITA
219.2

Clause 112

Subsection 11(4) of the *Income Tax Application Rules, 1971* (ITARs) reduces the rate of the special branch tax under Part XIV of the Act on a non-Canadian corporation carrying on business in Canada. The reduction applies where the corporation is a resident of a country having a tax treaty with Canada that does not limit the rate of Part XIV tax but does limit the rate of Part XIII withholding tax on dividends paid to a resident of that country. In such circumstances, subsection 11(4) of the ITARs reduces the rate of Part XIV tax to the rate of Part XIII tax allowed under the treaty. This ITAR provision is being repealed and incorporated in new section 219.2 of the Act. This amendment is applicable to the 1985 and subsequent taxation years.

Security

Clause 113

Subclause 113(1)

ITA
220(4.1)

Where a taxpayer disputes an assessment, new subsection 220(4.1) requires the Minister to accept adequate security furnished by a taxpayer in lieu of payment of the assessed amount while the taxpayer’s objection or appeal is outstanding. This subsection is applicable on Royal Assent.

Surrender of Excess Security

Subclause 113(2)

ITA
220(4.2)

This subsection was formerly subsection 220(4.1). It requires the Minister, where he has accepted security under subsection 220(4) for the payment of

any amount that is or may become payable under the Act, to surrender to the taxpayer, upon his written request, such security that is in excess of amounts payable that time. This subsection is amended to add a reference to security accepted by the Minister under new subsection 220(4.1) and is applicable on Royal Assent.

Certificates

Clause 114

ITA
223(1)

Existing subsection 223(1) of the Act permits the Minister to certify amounts payable under the Act which are unpaid either upon the expiry of 30 days after default, or immediately, where he has directed immediate payment under subsection 158(2). When such a certificate is registered in the Federal Court it has the same force and effect as a judgment of that Court. As a result of the repeal of subsection 158(2) and the amendments to make amounts assessed under the Act payable forthwith, paragraphs 223(1)(a) and (b) are repealed. Subject to the restrictions on collection actions introduced in new section 225.1, the Minister may now make such a certification at any time. This amendment is applicable on Royal Assent.

Seizure of Chattels

Clause 115

ITA
225(1)

Where a taxpayer has failed to pay an amount as required by the Act, existing subsection 225(1) permits the Minister, upon 30 days notice, to direct that the taxpayer's goods and chattels be seized, whether or not the taxpayer has initiated an objection or appeal. Taking this collection action is now subject to the new restrictions introduced in section 225.1 which defer enforcement for the period during which the taxpayer may object to or appeal from an amount assessed under the Act. The amendment to this subsection simply removes the reference to whether or not the amount is subject to objection or appeal. This amendment is applicable on Royal Assent.

Collection Restrictions

Clause 116

ITA
225.1 and 225.2

New section 225.1 restricts the collection of unpaid amounts for which a taxpayer has been assessed under the Act where the taxpayer objects to or appeals from the assessed amounts in question. These restrictions do not apply where it may reasonably be considered that collection of the amount would be jeopardized by delay. Under new section 225.2 the Minister may in jeopardy circumstances take immediate collection action.

Subsection 225.1(1) provides that the Minister shall not take any of the specified collection actions in respect of an unpaid amount (other than an amount payable under subsection 227(9) in respect of unremitted source deductions) until 90 days after mailing the notice of assessment of the amount. This is the period in which a taxpayer wanting to dispute an assessment is permitted to file a notice of objection. The subsection is applicable to notices of assessments mailed after 1984.

Subsection 225.1(2) provides that where a taxpayer has objected to an amount assessed, collection actions in respect of the amount in controversy may not be taken until 90 days after the day the notice is mailed to the taxpayer that the Minister has confirmed or varied that assessment. This is the period within which a taxpayer may institute an appeal to the courts. This subsection is applicable to notices of objection served after 1984.

Subsection 225.1(3) provides that where a taxpayer appeals to the Tax Court of Canada or directly to the Federal Court – Trial Division, no collection actions may be taken in respect of the amount in controversy until the date that a copy of the decision of the Tax Court is mailed to the taxpayer or the day on which the judgment of the Federal Court is pronounced as the case may be. Where a taxpayer discontinues an appeal to the Federal Court, collection actions may be commenced at that time. This subsection is applicable to appeals from assessments for which notices of objection were served after 1984.

Subsection 225.1(4) provides that where a taxpayer has agreed under subsection 173(1) to refer a question for determination to the Federal Court, no collection actions may be taken for that part of an amount assessed that relates to the question until such time as the question is determined by the Court. This restriction on collection actions also applies where a taxpayer is named in an application made by the Minister under subsection 174(1) to the Tax Court of Canada or the Federal Court – Trial Division for the determination of a question common to two or more taxpayers. The subsection is applicable to assessments made after 1984 and to assessments objected to after 1984.

Subsection 225.1(5) applies where a taxpayer has objected to or appealed from an amount assessed and agrees in writing with the Minister of National Revenue that his objection or appeal will be held in abeyance pending the decision of a court in a similar case. In these circumstances, the Minister may take collection actions with respect to an amount assessed in a manner consistent with the court decision at any time after the Minister notifies the taxpayer in writing that the decision in that case has been rendered by the court. This subsection is applicable with respect to notices of objection served after 1984 and to appeals from assessments objected to after 1984.

Notwithstanding the restrictions on taking collection actions introduced in new section 225.1, new subsection 225.2(1) authorizes the Minister to enforce the collection of any amount assessed by taking any of the collection actions listed in new subsection 225.1(1) in circumstances where it may be reasonably be considered that collection of the amount in question would be jeopardized by a delay. Before taking such enforcement action the Minister is required to make a direction to the taxpayer to pay. The taxpayer is given the right to appeal any such enforcement action.

Subsection 225.2(2) allows a taxpayer to apply for judicial review of the Minister's direction made under subsection 225.2(1) to pay an amount in

jeopardy circumstances. The subsection sets out the detailed rules for instituting any such review.

Subsection 225.2(3) prescribes the time within which a taxpayer may apply for a judicial review of a Minister's direction as permitted by new subsection 225.2(2). The application must be made within 30 days from the date of the notice of the direction or within such further time as the judge may determine where the circumstances did not allow the application to be filed within the 30-day period.

Subsection 225.2(4) provides that, upon the application of the taxpayer, the judicial review of the Minister's direction may be held in camera where appropriate.

Subsection 225.2(5) requires that on the judicial review of a Minister's direction made under subsection 225.2(1) the onus is on the Minister to justify his direction.

Subsection 225.2(6) provides that the judge shall summarily decide whether the Minister's direction under subsection 225.2(1) was justified in the circumstances. The judge may confirm, vacate or vary the direction and make any other order that he considers appropriate.

Subsection 225.2(7) provides for the continuation of an application for judicial review of a Ministerial direction by another judge where the judge to whom the application was originally made cannot, for any reason, continue to act.

Subsection 225.2(8) provides that costs shall not be awarded upon the disposition of an application for judicial review of a Minister's direction in jeopardy circumstances.

New section 225.2 is applicable on Royal Assent.

Clause 117

Subclause 117(1)

Subsection 227(7) of the Act sets out the circumstances in which the Minister is required to assess a non-resident person for the non-resident withholding tax payable under Part XIII of the Act. Where any such assessment is made, this subsection also provides that Division I (relating to returns, assessments, payment and appeals) and Division J (relating to appeals to the Tax Court of Canada and the Federal Court) of Part I apply to enable the taxpayer to object to the assessment and take advantage of the appeal procedures set out in the Act. The amendment to this subsection, by excluding the application of subsections 164(1.1) to (1.3), ensures that non-resident withholding tax need not be repaid by Revenue Canada where the non-resident objects or appeals from an assessment of his Part XIII tax

Withholding Taxes

ITA
227(7)

liability until such time as the final decision is made on the matter. This amendment is applicable on Royal Assent.

Assessment

ITA
227(10), (10.1)

Subclause 117(2)

Subsection 227(10) of the Act permits the Minister to assess a person for any amount payable by him under Part XIII, section 227, 227.1 or 235 and provides that Division I (relating to returns, assessments, payment and appeals) and Division J (relating to appeals to the Tax Court of Canada and the Federal Court) of Part I apply in respect of such assessment. This subsection is amended to add a reference to subsections 224(4) and (4.1) relating to garnishments. In addition, with application to the non-resident withholding tax, the amendment restricts the authority of the Minister to assess non-residents under subsection 227(10).

New subsection 227(10.1) permits the Minister to assess amounts payable by a person under subsection 227(9) and amounts payable by any non-resident person under Part XIII and provides that the administrative provisions of Divisions I and J will apply. However, by excluding new subsections 164(1.1) to (1.3), non-residents will not be entitled to any repayment of Part XIII tax in controversy simply by filing an objection or appeal. Such tax will not be repaid until a final decision is reached on the objection or appeal. These amendments are applicable after 1984.

Federal-Provincial Fiscal Arrangements Act

ITA
228

Clause 118

Section 228 of the Act provides that such part of any amount paid on account of taxes under the *Income Tax Act* and provincial income tax Acts as is applied by the Minister to the liability under the *Income Tax Act* in accordance with the provincial tax collection agreements entered into under Part III of the *Federal-Provincial Fiscal Arrangements Act* discharges the liability under the *Income Tax Act* of the payer of the amount to the extent of the part so applied. The amendment, which is of a housekeeping nature, changes the reference to the Act authorizing the collection agreements to the Act under which those agreements are now made, the *Federal-Provincial Fiscal Arrangements and Federal Post-Secondary Education and Health Contributions Act, 1977*. This amendment will be effective on Royal Assent to the enacting legislation.

Part XV –
Maintenance of Records re
Objection or Appeal
ITA
230(6)

Clause 119

Section 230 of the Act sets out the requirements relating to the keeping of books and records. Subsection 230(6) sets out requirements for maintaining records necessary for dealing with an objection or appeal. The reference in the subsection to the “Tax Review Board” which no longer exists is changed to a reference to the “Tax Court of Canada” which replaced the Board. This amendment is applicable on and after July 18, 1983.

Clause 120ITA
232(8)

Section 232 of the Act sets out the rules relating to the solicitor-client privilege. Subsection 232(8) provides that where a judge, to whom an application is made for the return of documents on the basis of solicitor-client privilege, cannot act or continue to act under the section, subsequent applications may be made to another judge. Subsection 232(8) is amended to clarify that the reference to “subsequent applications” is a reference to applications permitted under paragraph 232(4)(c). This amendment is effective on Royal Assent to the enacting legislation.

Clause 121

Mailing Date

Subclause 121(1)ITA
244(14)

Subsection 244(14) of the Act provides that the day of mailing of a notice of assessment and of certain other notifications under the Act shall, in the absence of any evidence to the contrary, be deemed to be the date appearing thereon. The subsection is amended to add reference to notifications to be given under new subsections 164(1.2) and 225.2(1) relating to collections in jeopardy circumstances. In addition, the amendment permits taxpayers, as well as the Minister, to question the date of the notice. This amendment is applicable on Royal Assent.

Date When Assessment Made

Subclause 121(2)ITA
244(15)

The French version of subsection 224(15) is amended to correct certain inconsistencies between the expressions used in that provision and subsection 244(14).

Definitions

Clause 122ITA
248(1)

Subsection 248(1) of the Act defines many of the terms used in the Act.

Subclause 122(1)

“Canadian resource property”
and
“Foreign resource property”

The definition of “foreign resource property” is currently included with the definition of “Canadian resource property” in subsection 248(1) for purposes of the Act. These two definitions are being separated so they will each appear in alphabetical order in subsection 248(1), effective on Royal Assent to the enacting legislation.

“Death benefit”

A death benefit received by a taxpayer is included in the taxpayer’s income under subparagraph 56(1)(a)(iii) of the Act and, if paid to a non-resident, is subject to non-resident withholding tax under paragraph 212(1)(j) of the Act. The term “death benefit” is defined in subsection 248(1) of the Act to be an amount received by a person upon or after the death of an employee in

recognition of the employee's service in an office or employment minus a portion of the amount which is exempt from taxation.

Where the recipient is the widow of the employee, the exempt portion of the amount received by her is the first \$10,000. Under the existing provisions, there is no exempt portion for amounts received by the widower of an employee. To conform with section 15 of the Canadian Charter of Rights and Freedoms, the definition of death benefit is amended so the exempt portion will be available for a surviving spouse, whether widow or widower.

The definition is also amended to simplify the determination of the exempt portion for recipients other than a surviving spouse, and to expand the circumstances under which an amount may be exempt for such recipients. Under the new definition, if a surviving spouse receives less than \$10,000 in benefits in respect of an employee and another taxpayer receives a benefit in respect of the employee, the exempt portion for that other taxpayer will be the amount received by him up to the difference between \$10,000 and the amount received by the surviving spouse. Where more than one taxpayer other than a surviving spouse receives benefits in respect of an employee, the exempt portion available to them will be shared among them on a proportionate basis having regard to the amounts received by each of them.

The amendments to this definition are applicable to the 1985 and subsequent taxation years.

Subclause 122(2)

"Canadian development
expense"
"Canadian exploration and
development expenses"
"Canadian exploration expense"
"Foreign exploration and
development expenses"
"Investment tax credit"
"Life insurance policy"
"Life insurance policy in
Canada"
"Undepreciated capital cost"

The addition, effective on Royal Assent to the enacting legislation, the addition of the definitions "Canadian development expense", "Canadian exploration and development expenses", "Canadian exploration expense", "foreign exploration and development expenses", "investment tax credit", "life insurance policy", "life insurance policy in Canada" and "undepreciated capital cost" to subsection 248(1) makes the definitions of these terms assigned by particular provisions of the Act generally applicable for all purposes of the Act.

"Tar sands"

The addition of the definition "tar sands" to subsection 248(1), applicable to the 1983 and subsequent years, provides a convenient term for referring to a deposit of bituminous sand, oil sand or oil shale. The term is used in subparagraphs 12(1)(o)(v) and 18(1)(m)(v) in relation to Crown charges, in Section 65 relating to depletion, in subparagraphs 125.1(3)(b)(vi) and (vi.2) relating to the tax credit for manufacturing and processing profits, in the definition "qualified property" in subsection 127(9) relating to the investment tax credit, and in subsection 208(1.1) relating to the Part XII tax.

Subclause 122(3)

"Taxable Canadian property"

Paragraph (a) of the definition of "taxable Canadian property" is amended by deleting the reference to properties that would have been Canadian

resource properties had they been acquired after 1971. That reference is no longer necessary because the definition of “Canadian resource property” in paragraph 66(15)(c) is being amended to include such properties. This amendment applies to taxation years commencing after 1984.

Subclause 122(4)

“Term preferred share”

Paragraph (j) of the definition “term preferred share” is an anti-avoidance provision which deems a share to be a term preferred share where one of the main purposes of its issue is to avoid the disallowance under subsection 112(2.1) of the deduction for dividends received by specified financial institutions. The amendment to this paragraph, which adds a reference to subsection 138(6), applicable generally for shares issued after May 9, 1985, ensures that the anti-avoidance provision is also effective with respect to dividends received by life insurance corporations.

Subclause 122(5)

ITA 248(7)

New subsection 248(7) of the Act provides that anything sent by mail shall be considered for the purposes of the Act to have been received by the recipient on the day that it was mailed. This amendment confirms the current administrative practice with respect to the date of filing of tax returns and elections and the date of receipt of amounts sent by mail. The amendment is applicable in respect of anything sent by mail after 1984.

ITA 248(8) and (9)

New subsection 248(8) provides an expanded definition for purposes of the Act of transfers of property “as a consequence of the death” of a taxpayer. This is relevant for the various special provisions for transfers of property as provided in section 70 and for the definition of “testamentary trust” in paragraph 108(1)(i).

Certain amendments recently enacted in Bill C-7, effective for transfers of farm property and shares of a small business corporation occurring after 1983, were designed to allow testamentary intergenerational rollovers of such property to be made at an elected value at any point between the cost and the fair market value of the property at the time of the transfer. Concern has been expressed that these rules would not apply where consideration has been paid by the beneficiary to the deceased’s estate in satisfaction of the terms of a testamentary instrument. This could occur, for example, where a farmer has more than one child and in his will leaves the family farm to one of them provided that the child pays sufficient consideration to the estate to fund bequests to the other beneficiaries. In such circumstances it is not clear that the transfer is made “as a consequence of the death” of the testator since it may instead result from the payment of the consideration. The rollovers under section 70 of the Act, however, apply only to transfers made as a consequence of the death of a taxpayer. New paragraph 248(8)(a) ensures that the rollovers will be available in these circumstances.

New paragraph 248(8)(b) ensures that the provisions that currently apply to transfers or dispositions made as a consequence of the death of a taxpayer will also apply to transfers or dispositions made as a consequence of a disclaimer, release or surrender by a person who was a beneficiary under the taxpayer's will or intestacy. The words "release or surrender" are substituted for "renunciation" since "release or surrender" has a clearer common law meaning than "renunciation" has and the use of "renunciation" may have led to confusion, particularly since under Quebec law "renunciation" describes the equivalent of a disclaimer. New paragraph 248(8)(c) ensures that such a release or surrender will not, in itself, be considered to be a disposition for tax purposes.

New subsection 248(9) defines terms used in subsection 248(8). It clarifies that the expressions "disclaimer" and "release or surrender" include acts having similar effects under the laws of Quebec. New paragraph 248(9)(b) limits releases and surrenders referred to in subsection 248(8) to those made within three years of the death of the taxpayer or such longer period as the Minister on application considers reasonable. This is the period within which property must vest indefeasibly to qualify for the testamentary intergenerational rollovers. A release or surrender must also not be made in favour of any particular person or persons.

New subsections 248(8) and (9) are applicable to transfers, distributions and acquisitions after 1981. This coincides with the effective date for amendments made in the past to some of the rules governing testamentary transfers to recognize disclaimers, releases and surrenders.

Subclauses 122(6) to (11)

These set out the effective dates for the amendments to section 248 of the Act.

Non-Resident Corporation

ITA
250(5)

Clause 123

New subsection 250(5) treats a corporation for the purposes of the Act as being not resident in Canada if it was incorporated outside Canada and is treated for the purposes of any double taxation convention or agreement concluded by Canada with another country as a resident of that country and not as a resident of Canada. This means, for example, that any dividends, interest and other amounts subject to tax under Part XIII of the Act and that are paid or credited after May 9, 1985 to any such corporation will be subject to the non-resident withholding tax at the appropriate treaty rate. The amendment provides that the rules in section 116 of the Act relating to dispositions by non-residents of taxable Canadian property and the rules in section 69 relating to certain non-arm's-length transactions with non-residents will also apply to any such corporation effective after May 9, 1985. In addition, any such corporation will also be treated as not resident in Canada for the purpose of computing its income, taxable income earned in

Canada and tax payable under Parts I and XIV of the Act for taxation years commencing after May 9, 1985.

Definition of Child

ITA
252(1)

Clause 124

Subsection 252(1) of the Act provides an extended meaning of persons who are considered to be children of a taxpayer for the purposes of the Act. Currently the extended meaning includes a son-in-law or daughter-in-law. The amendments to subsection 252(1) clarify that a child of a taxpayer will also include a step-son-in-law or a step-daughter-in-law of the taxpayer. In addition, the reference to an illegitimate child of a taxpayer is replaced by a reference to a person of whom the taxpayer is the natural parent. The amendments are applicable for the 1985 and subsequent taxation years.

Deemed Dividend on Term Preferred Share

ITA
258(2)(a)

Clause 125

Special rules are provided under the Act to disallow the general inter-corporate dividend deduction in respect of dividends paid to financial institutions and certain other corporations on term preferred shares and on most income bonds or debentures. These instruments represent debt or debt substitutes to the holder and accordingly corporate holders are fully taxed on their return as would be the case with ordinary debt instruments. Consistent with this objective, subsection 258(2) of the Act treats any interest payable on the interest or dividends payable on income bonds or debentures as a dividend payable on a term preferred share. The amendment to paragraph 258(2)(a) ensures that this rule applies only to those income bonds or debentures issued before November 17, 1978 or pursuant to an agreement made before that time. As a result, subsection 258(2) will not apply to income bonds and debentures issued on or after that date by a corporation in financial difficulty, which income bonds and debentures are intended to qualify for the inter-corporate dividend deduction. This amendment is applicable after November 16, 1978.

Schedule III – French Version Changes

Clause 126

This clause amends the French version of the Act as indicated in Schedule III to remove certain inaccuracies and to correct certain inconsistencies between the expressions used in the English and the French versions of the Act.

These amendments are effective on Royal Assent to the enacting legislation.

Income Tax Application Rules, 1971 (ITAR)

Clauses 127 to 146

Subclauses 127, 128, 129 and subclauses 131(3), 83(4) and (7) repeal the provisions of the ITAR listed in the schedule below. All of those provisions, except for subsection 11(4), are being repealed since they no longer have any

application. The repeal of these provisions does not affect the tax position of any taxpayer for any taxation year. Subsection 11(4), which lowers the rate of the special branch tax imposed on non-Canadian corporations under Part XIV of the Act to rates for dividends set out in Canada's tax treaties with other countries, is being repealed and the rule contained in that subsection is being added to Part XIV of the Act in new section 219.2.

The repeal of subsection 11(4) is applicable to the 1985 and subsequent taxation years. The repeal of all other provisions, which are referenced to the appropriate Clause of the Motion, listed in the schedule is applicable on Royal Assent to the enacting legislation.

Schedule of ITAR Provisions Being Repealed

ITAR	Summary of the Effect of the ITAR Provision
10(1)	– limited the application of the non-resident withholding tax imposed under Part XIII of the Act for the 1972 taxation year to amounts paid or credited after 1971.
10(2) and (3)	– reduced the non-resident withholding tax rate on most categories of payment from 25% to 15% and on certain film royalties to 10% for amounts paid or credited before 1976.
11(1) to (3)	– reduced the rate of the branch under tax under Part XIV of the Act from 25% to 15% for the 1972 to 1975 taxation years.
11(4)	– reduced the rate of the branch tax under Part XIV to rates provided with respect to dividends in a tax treaty in those circumstances where the corporation was resident in a treaty country. This provision is being added to Part XIV of the Act in new section 219.2.
22(1)	– provided that for the 1972 taxation year the thin capitalization rules of subsections 18(4) to (7) of the Act do not apply except where the taxation year commenced after 1971.
22(2)	– altered the application of the thin capitalization rule in subsection 18(4) of the Act for the first two taxation years commencing after 1971.
23(1)	– allowed certain accounts payable of a professional business at the end of its 1971 fiscal period to be deducted in computing income for the 1972 taxation year. (Clause 130)
23(2)	– provided a rule for valuing professional work in progress of a taxpayer at the beginning of his 1972 fiscal period. (Clause 130)
26(2)	– excluded gains and losses on listed personal property before 1972 from the income calculation for 1972 and restricted the carryforward of listed

personal property losses under section 41 of the Act to losses incurred in years ending after 1971. (Subclause 131(1))

- 27 – disallowed any deduction for pre-1972 moving expenses. (Clause 132)
- 28 – provided an exemption for certain income earned before 1974 from the operation of a mine. (Clause 132)
- 32.1(3), (3.1), and (3.2) – allowed late-filed elections under subsections 83(1) and (2) of the Act in respect of dividends payable before 1975. (Subclause 134(1))
- 32.1(5) and (6) – allowed certain elections to be late-filed where the elections were made on or before June 30, 1975. (Subclause 134(2))
- 33(1) – provided rules concerning the treatment of deemed dividends and the calculation of undistributed income on hand where the deemed dividends relate to transactions before 1972. (Clause 135)
- 33(2) – provided a special rule for computing the paid-up capital deficiency of a corporation incorporated in 1971. (Clause 135)
- 34(2) – provided a special rule for computing the 1971 undistributed income on hand, 1971 capital surplus on hand and paid-up capital deficiency of a new corporation formed as a result of an amalgamation in 1971. (Subclause 136(1))
- 34(5), (6) and (8) – imposed a special tax on a new corporation formed as a result of an amalgamation in 1971. (Subclause 136(2) and (3))
- 35(3) – provided that the inclusion in the income of a shareholder with respect to the foreign accrual property income of a controlled foreign affiliate did not apply before the 1976 taxation year of the affiliate. (Clause 137)
- 35.1 – provided that certain rules in the Act relating to discretionary non-resident trusts did not apply before the 1976 taxation years of the trusts. (Clause 138)
- 37 – provided the transitional rules relating to the carryover of losses necessary as a result of the changes to the Act effective for 1972. (Clause 139)
- 38 – provided the necessary transitional rules relating to general averaging for the 1972 to 1975 taxation years. (Clause 139)
- 39 to 48 – provided special income averaging rules for taxation years ending before 1976. (Clauses 139 and 140)
- 51 – provided a special transitional rule for determining the tax payable by a corporation for its 1972 taxation year that commenced in 1971. (Clause 141)

- 52 and 54 – provided special rules for determining the tax payable by a corporation for taxation years which are partly before and partly after the beginning of any of the 1973, 1974, 1975 and 1976 calendar years. (Clause 141)
- 55 – provided special transitional rules for purposes of calculating the foreign tax carryover after 1971. (Clause 141)
- 56 – provided special rules for determining the refundable dividend tax on hand of a private corporation that had a 1972 taxation year that commenced before 1972. (Clause 141)
- 56.01 – provided special rules relating to capital gains dividends payable by a mutual fund corporation within the period of 60 days immediately following the taxation year that includes July 27, 1973. (Clause 141)
- 56.1 – provided a special rule relating to the qualification of a trust as a mutual fund trust in 1972. (Clause 141)
- 57(1) to (7), (10) and (12) – provided special rules relating to specified personal corporations for the 1972 taxation year. (Clause 142)
- 57.1 – provided rules to determine the tax payable by a cooperative corporation for its 1972 taxation year that commenced in 1971. (Clause 143)
- 58(2), (3), (3.1), (4) and (4.1) – provided special rules relating to credit unions for the 1972 taxation year. (Clause 144)
- 59(1) – set out the tax rates for non-resident-owned investment corporations for the 1972 to 1975 taxation years. (Clause 145)
- 60 – provided special rules for phasing out foreign business corporations. (Clause 146)

Subclause 131(2)

ITAR
26(3)(c)(i)

The amendment to subparagraph 26(3)(c)(i) of the ITAR is consequential on the amendments made to clause 13(21.1)(a)(i)(B) of the Act which are discussed in the commentary on subsection 13(21.1) of the Act.

Subclause 131(3)

ITAR
26(8)(e)

Subsection 26(8) of the ITAR sets out special provisions with respect to identical properties that were acquired prior to 1972. The amendment to this subsection provides that securities held under an indexed security investment plan (ISIP) will not be considered for the purposes of the special ordering rule in paragraph 26(8)(e). This amendment is applicable after September 30, 1983 – the date on which the rules relating to ISIPs were made effective.

Subclause 131(4)

ITAR
26(18)(c)

Subsection 26(18) of the ITAR provides that where farm land owned by a taxpayer since December 31, 1971 is transferred as a consequence of his death to his child, the child has the benefit of the taxpayer's "tax-free zone". Thus any capital gain on the land that accrued before 1972 will not be taxed on a sale of the land by the child. For this subsection to apply, the property must vest in the child within 15 months after the death of the taxpayer and it must be possible to establish within that period or such longer period as is reasonable that the vesting in fact occurred. The period allowed for vesting and for establishing the vesting is being changed from 15 months to 36 months. A reasonable period longer than 36 months may be allowed by the Minister of National Revenue if a written application for it is made to the Minister by the taxpayer's legal representative within the 36-month period or not later than 90 days after Royal Assent to the enacting legislation. This amendment is applicable for deaths occurring after 1984. For a death of a taxpayer occurring after 1981 and before 1985, the amendments are applicable with respect to a property of the taxpayer if the taxpayer's legal representative and each person to whom an interest in the property is transferred or distributed as a consequence of the death of the taxpayer jointly elect for the amendments to apply. That joint election must be made by notifying the Minister of National Revenue in writing on or before the later of December 31, 1985 and the day that is 90 days after Royal Assent to the enacting legislation.

Subclauses 133(1) to (7), 136(1) and (2)

ITAR
29(25), (27), (28), (29) and
(30) and 34(3) and (4)

ITAR subsections 29(25) and 29(29) contain rules, known as successor rules, which allow exploration and development expenses of a taxpayer (the "predecessor") incurred before 1972 to be deducted by a principal- business corporation (the "successor corporation") which acquires all or substantially all the resource assets of the predecessor or by another principal-business corporation (the "second successor corporation") which acquires all or substantially all the resource assets of the first successor corporation. Under the successor rules the predecessor's resource expenses are deductible by the successor corporation or second successor corporation only against its income for the resource properties previously owned by the predecessor, and the expenses may not be carried forward after a second succession to be deducted by a third successor.

At the present time, the successor rules apply on property acquisitions occurring in the course of a winding-up of a corporation or an amalgamation of two or more corporations. There is an exception to provided under subsection 87(1.2) of the Act which allows the carryforward, without restriction, of pre-1972 exploration and development expenses of a parent corporation to a new corporation formed on an amalgamation of the parent with one or more of its subsidiary wholly-owned corporations. An amendment to subsection 87(1.2) expands that exception to allow the carryforward, without restriction, of pre-1972 exploration and development expenses of

subsidiary wholly-owned corporations of a parent corporation to a new corporation formed on an amalgamation of the subsidiary with the parent and/or with one or more other direct or indirect wholly-owned subsidiaries of the parent.

A similar exception is being introduced in new subsection 88(1.5) of the Act to allow the carryforward, without restriction, to a parent corporation of pre-1972 exploration and development expenses of a subsidiary which has been wound up.

One set of amendments to ITAR subsections 29(25) and (29) is consequential on the expanded carryover of expenses introduced by the amendment to subsection 87(1.2) and the addition of new subsection 88(1.5) of the Act. The result is to prevent the successor corporation restrictions from applying to an amalgamation or winding-up which qualifies for the expanded carryover of expenses. These amendments are applicable to acquisitions after 1982.

Another set of amendments to the opening words of ITAR subsections 29(25) and (29) broadens the range of property transfers which qualify for taxpayer elections to have the successor rules apply. Currently, one of the requirements of these rules is the acquisition by the successor or second successor corporation of all or substantially all of the property used by the transferor in carrying on his resource business in Canada. This requirement is being changed so that instead of the successor or second successor corporation having to acquire all or substantially all of the property used by the transferor in his resource business, the successor or second successor corporation will only have to acquire all or substantially all of the transferor's Canadian resource properties. These amendments are applicable to property acquisitions occurring in taxation years commencing after 1984. ITAR subsections 29(25) and (29) are also amended to clarify that they apply on property acquisitions occurring in the course of an amalgamation other than an amalgamation described in subsection 87(1.2) of the Act. In the case of an amalgamation, there is no need for an election for the rules to apply. As a consequence of this amendment, the separate successor rules in ITAR subsection 34(3) relating to amalgamations are repealed, the references to ITAR subsection 34(3) are removed from ITAR subsections 29(27), (28) and (30), and the reference in ITAR subsection 34(4) to subsection 34(3) is changed to a reference to subsections 29(25) and (29). These amendments are applicable to acquisitions after 1982.

Canadian Resource Properties

ITAR
29(25)(d)(i) and
29(29)(b)(i)

Subclause 133(3)

The amendments to ITAR subparagraphs 29(25)(d)(i) and 29(29)(b)(i) are consequential on the broadening of the definition of "Canadian resource property" to include properties acquired before 1972 as well as those acquired after 1971. The amendments replace the references to "property described in any of subparagraphs 66(15)(c)(i) to (vii) of the amended Act" with the expression "Canadian resource property". These amendments are

applicable to transactions occurring in taxation years commencing after 1984.

Cross Reference

Clause 147

ITA
161(1)

Section 161 of the Act relates to interest on unpaid taxes and on late or deficient tax instalments. Interest at a prescribed rate is payable on taxes due but not paid. Subsection 161(1) is amended to delete the words “after April 19, 1983” to clarify that the amendment in Bill C-2 to that subsection is only applicable for the purpose of calculating interest for periods or portions of periods that are after April 19, 1983. For periods or portions of periods before April 20, 1983 interest will continue to be payable under subsection 161(1) as it read before the amendments in that Bill.

Offshore Investment Funds

Clause 148

ITA
94.1

Section 94.1 of the Act contains an anti-avoidance provision relating to investors in offshore investment funds. This provision is applicable after 1985 in the case of investments held on February 15, 1984 or acquired after that date in substitution for investments held on that date where the substitution is pursuant to an arrangement existing on that date. For other investments, the provision is applicable after 1984. This amendment to the effective date of the provision provides that stock dividends received after February 15, 1984 on shares of the capital stock of non-resident entities held on that date will not be subject to this new provision until after 1985.

Tax Court of Canada Act
TCCA 16

Clause 149

The amendment to section 16 of the *Tax Court of Canada Act* relating to hearings in camera is explained in the commentary on the amendment to section 179 of the *Income Tax Act*.

Income Tax Conventions
Interpretation Act
ITCIA 6.1

Clause 150

This clause complements section 7 of the *Income Tax Conventions Interpretations Act*. New section 6.1 will provide a transitional rule for taxpayers with taxation years that include the June 23, 1983 application date. Where a taxpayer's taxation year includes June 23, 1983 any additional tax payable by him under the *Income Tax Act* as a result of a new interpretation to be given a word pursuant to the rules set out in the *Income Tax Conventions Act* will be prorated. The additional tax will be limited to the proportion of the total additional tax payable that the number of days in the taxation year. This amendment removes the retroactive effect of the *Income Tax Conventions Interpretation Act* on income earned before the June 23, 1983 application date.

Reference Changes

Schedule I

Schedule I contains two amendments which change references to “paragraph 34(1)(d)” where they appear in the *Income Tax Act* to “paragraph 34(1)(a)” or “subsection 34(1)” as a consequence of the amendment which repeals section 34 and re-enacts the provisions contained in paragraph 34(1)(d) in new paragraph 34(1)(a). These amendments are applicable to the 1985 and subsequent taxation years.

Reference Changes

Schedule II

Schedule II contains a number of amendments which change references to “subsection 59(2) or (2.1)” where they appear in the *Income Tax Act* to “subsection 59(2)” as a consequence of the amendment which combines the provisions of subsections 59(2) and (2.1) into new subsection 59(2) and repeals subsection 59(2.1). These amendments are applicable to taxation years commencing after 1984.

Amendments to the French Version of the Income Tax Act

Schedule III

Schedule III contains numerous amendments to the French version of the *Income Tax Act* which remove certain inaccuracies and correct inconsistencies between the expressions used in the English and French versions of the Act. These amendments:

- clarify the French version of the Act;
- provide more appropriate terminology and make the wording of various provisions of the Act more consistent; and
- correct grammatical errors and errors in syntax.

These amendments are applicable on Royal Assent to the enacting legislation.



House of Commons
Chambre des communes
CANADA

NOTICES OF MOTIONS AVIS DE MOTIONS

WAYS AND MEANS VOIES ET MOYENS

Wednesday, October 16, 1985
Le mercredi 16 octobre 1985

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NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE TAX ACT (1)

That it is expedient to introduce a measure to amend the Excise Tax Act and to provide among other things:

1. That the provisions of the Act relating to the indexing adjustments of the excise tax rates on wines and tobacco products be repealed.
2. That the excise taxes on wines be imposed at the following rates:
 - (a) 1.72 cents per litre on wines of all kinds containing not more than one and two-tenths per cent of absolute ethyl alcohol by volume;
 - (b) 20.64 cents per litre on wines on all kinds containing more than one and two-tenths per cent of absolute ethyl alcohol by volume but not more than seven per cent of absolute ethyl alcohol by volume; and
 - (c) 43 cents per litre on wines of all kinds containing more than seven per cent of absolute ethyl alcohol by volume.
3. That the excise taxes on cigarettes, manufactured tobacco and cigars be imposed at the following rates:
 - (a) for each five cigarettes or fraction of five cigarettes contained in any package.....9.695 cents;
 - (b) manufactured tobacco, including snuff, but not including cigars and cigarettes.....5.900 dollars per kilogram; and
 - (c) cigarsthirty per cent.
4. That the excise tax on gasoline and aviation gasoline be increased by two cents per litre on September 3, 1985 and by an additional one cent per litre on January 1, 1987.
5. That an excise tax of two cents per litre be imposed on diesel fuel and aviation fuel other than aviation gasoline, effective September 3, 1985 and that that tax be increased by one cent per litre on January 1, 1987.
6. That the provisions of the Act relating to relief from the excise tax on gasoline or aviation gasoline for certain persons not apply to the excise tax increases imposed on these products provided for in any enactment founded on paragraph 4 of this motion.

AVIS DE MOTION DES VOIES ET MOYENS MODIFIANT LA LOI SUR LA TAXE D'ACCISE (1)

Qu'il y a lieu de présenter un projet de loi afin de modifier la Loi sur la taxe d'accise et de prévoir entre autres:

1. Que les dispositions de la Loi relatives aux rajustements d'indexation des taux de la taxe d'accise sur les vins et les produits du tabac soient abrogées.
2. Que les taxes d'accise sur les vins soient imposées aux taux suivants:
 - a) 1,72 cent le litre sur les vins de toute espèce contenant au plus un et deux dixièmes pour cent d'alcool éthylique absolu par volume;
 - b) 20,64 cents le litre sur les vins de toute espèce contenant plus de un et deux dixièmes pour cent d'alcool éthylique absolu par volume mais au plus sept pour cent d'alcool éthylique absolu par volume; et
 - c) 43 cents le litre sur les vins de toute espèce contenant plus de sept pour cent d'alcool éthylique absolu par volume.
3. Que les taxes d'accise sur les cigarettes, le tabac manufacturé et les cigares soient imposées aux taux suivants:
 - a) pour chaque quantité de cinq cigarettes ou fraction de cette quantité de cinq cigarettes contenue dans un paquet quelconque9,695 cents;
 - b) tabac manufacturé, y compris le tabac à priser, mais à l'exclusion des cigares et des cigarettes.5,900 dollars le kilogramme; et
 - c) cigarestrente pour cent.
4. Que la taxe d'accise sur l'essence et l'essence d'aviation soit majorée de deux cents le litre le 3 septembre 1985 et d'un autre cent le litre le 1^{er} janvier 1987.
5. Qu'une taxe d'accise de deux cents le litre soit imposée sur le combustible diesel et le carburant d'aviation autre que l'essence d'aviation, à compter du 3 septembre 1985, et que cette taxe soit majorée d'un cent le litre le 1^{er} janvier 1987.
6. Que les dispositions de la Loi relatives à l'exonération de la taxe d'accise sur l'essence ou l'essence d'aviation pour certaines personnes ne s'appliquent pas aux majorations de la taxe d'accise imposée sur ces produits conformément à tout texte législatif fondé sur l'article 4 de la présente motion.

7. That diesel fuel for use in the generation of electricity, other than electricity generated for use primarily in the operation of a vehicle, be relieved of the excise tax imposed pursuant to any enactment founded on paragraph 5 of this motion.

8. That delivery of diesel fuel to a retail outlet by or on behalf of the manufacturer or producer thereof be deemed to be a sale for the purposes of the excise tax imposed pursuant to any enactment founded on paragraph 5 of this motion.

9. That the excise tax imposed pursuant to any enactment founded on paragraph 5 of this motion not be payable where the taxable fuel is sold to or imported by a manufacturer licensed for the purposes of Part III of the Act who sells such fuel other than exclusively and directly to consumers.

10. That a person who diverts fuel acquired for a use for which the excise tax imposed pursuant to any enactment founded on paragraph 5 of this motion is not payable, to a use for which such tax is payable, be liable for the excise tax on the fuel so diverted.

11. That the ad valorem rate of consumption or sales tax imposed on the following petroleum products be replaced by specific tax rates as follows:

- | | |
|------------------------------|----------------------|
| (a) gasoline, regular | .32 cents per litre; |
| (b) gasoline, unleaded | .35 cents per litre; |
| (c) gasoline, premium leaded | |
| and unleaded | .36 cents per litre; |
| (d) diesel fuel | .29 cents per litre; |

multiplied by the ad valorem rate of consumption or sales tax, expressed as a decimal number and multiplied by one hundred, which applies to goods other than wines and goods on which a duty of excise is imposed under the Excise Act and goods enumerated in Schedule V to the Act.

12. That the Governor in Council be authorized to make regulations defining the expressions used to describe the goods listed in any enactment founded on subparagraphs 11(a), (b) or (c) of this motion.

13. That the rates per litre specified in any enactment founded on paragraph 11 of this motion for the goods

7. Que le combustible diesel devant servir à produire de l'électricité, autre que l'électricité produite pour usage principalement dans le fonctionnement d'un véhicule, soit exonéré de la taxe d'accise imposée conformément à tout texte législatif fondé sur l'article 5 de la présente motion.

8. Que la livraison de combustible diesel à un point de vente au détail par le fabricant ou le producteur du combustible diesel ou en son nom soit réputée être une vente aux fins de la taxe d'accise imposée conformément à tout texte législatif fondé sur l'article 5 de la présente motion.

9. Que la taxe d'accise imposée conformément à tout texte législatif fondé sur l'article 5 de la présente motion ne soit pas exigible lorsque le combustible ou le carburant imposable est vendu à, ou importé par un fabricant muni d'une licence aux fins de la Partie III de la Loi, qui vend tel combustible ou carburant de façon autre qu'exclusivement et directement aux consommateurs.

10. Qu'une personne qui affecte du combustible qu'elle a acquis en vue d'un usage pour lequel la taxe d'accise imposée conformément à tout texte législatif fondé sur l'article 5 de la présente motion n'est pas payable, à une fin pour laquelle une telle taxe est payable, soit responsable de la taxe d'accise sur le combustible ainsi affecté.

11. Que le taux ad valorem de la taxe de consommation ou de vente qui est imposé sur les produits pétroliers suivants soit remplacé par des taux de taxe spécifique comme suit:

- | | |
|--------------------------------------|---------------------|
| a) essence, ordinaire | 0,32 cent le litre; |
| b) essence, sans plomb | 0,35 cent le litre; |
| c) essence, super avec ou sans plomb | 0,36 cent le litre; |
| d) combustible diesel | 0,29 cent le litre; |

multipliés par le taux ad valorem de la taxe de consommation ou de vente, exprimé en nombre décimal et multiplié par cent, qui s'applique aux marchandises autres que les vins et les marchandises sur lesquelles un droit d'accise est imposé en vertu de la Loi sur l'accise et les marchandises énumérées à l'Annexe V de la Loi.

12. Que le gouverneur en conseil soit autorisé à établir des règlements pour définir les expressions servant à décrire les marchandises énumérées dans tout texte législatif fondé sur les paragraphes 11a), b) ou c) de la présente motion.

13. Que les taux par litre spécifiés dans tout texte législatif fondé sur l'article 11 de la présente motion

listed in subparagraphs (a), (b) and (c) of that paragraph be adjusted quarterly on the first day of January, April, July and October of each year, commencing on October 1, 1985, so that the rates applicable during the quarter commencing on any such adjustment day are equal to the rounded product of the rates that would have been applicable if no adjustment had been made pursuant to any enactment founded on this paragraph and the ratio, adjusted or altered in such manner as may be prescribed by regulation of the Governor in Council on the recommendation of the Minister of Finance and rounded, that the Industry Selling Price Index for Motor Gasoline for the twelve month period ending on the last day prior to the immediately preceding quarter bears to the Industry Selling Price Index for Motor Gasoline for the twelve month period ending on March 31, 1985.

14. That the rate per litre specified in any enactment founded on paragraph 11 of this motion for the goods listed in subparagraph (d) of that paragraph be adjusted quarterly on the first day of January, April, July and October of each year, commencing on October 1, 1985, so that the rate applicable during the quarter commencing on any such adjustment day is equal to the rounded product of the rate that would have been applicable if no adjustment had been made pursuant to any enactment founded on this paragraph and the ratio, adjusted or altered in such manner as may be prescribed by regulation of the Governor in Council on the recommendation of the Minister of Finance and rounded, that the Industry Selling Price Index for Diesel Fuel for the twelve month period ending on the last day prior to the immediately preceding quarter bears to the Industry Selling Price Index for Diesel Fuel for the twelve month period ending on March 31, 1985.

15. That the rate of Telecommunication Programming Services Tax be increased to seven per cent.

16. That the ad valorem consumption or sales tax be imposed at the following rates:

- (a) seven per cent on the sale price of goods enumerated in Schedule V to the Act;
- (b) fourteen per cent on the sale price of wine and all goods on which a duty of excise is imposed under the Excise Act, or would be imposed under that Act were the goods produced or manufactured in Canada; and

concernant les marchandises énumérées aux paragraphes a), b) et c) de cet article soient rajustés trimestriellement le premier jour de janvier, avril, juillet et octobre de chaque année, à compter du 1^{er} octobre 1985, de sorte que les taux applicables pendant le trimestre commençant à toute date de rajustement soient égaux au produit arrondi des taux qui auraient été applicables si aucun rajustement n'avait été effectué conformément à tout texte législatif fondé sur le présent article et du ratio, rajusté ou modifié de la manière qui peut être prescrite par règlement du gouverneur en conseil sur recommandation du ministre des Finances et arrondi, que représente l'indice des prix de vente dans l'industrie pour l'essence à moteur pour la période de douze mois se terminant le dernier jour avant le trimestre qui précède immédiatement par rapport à l'indice des prix de vente dans l'industrie pour l'essence à moteur pour la période de douze mois se terminant le 31 mars 1985.

14. Que le taux par litre spécifié dans tout texte législatif fondé sur l'article 11 de la présente motion concernant les marchandises énumérées au paragraphe d) de cet article soit rajusté trimestriellement le premier jour de janvier, avril, juillet et octobre de chaque année, à compter du 1^{er} octobre 1985 de sorte que le taux applicable pendant le trimestre commençant à toute date de rajustement soit égal au produit arrondi du taux qui aurait été applicable si aucun rajustement n'avait été effectué conformément à tout texte législatif fondé sur le présent article et du ratio, rajusté ou modifié de la manière qui peut être prescrite par règlement du gouverneur en conseil sur recommandation du ministre des Finances et arrondi, que représente l'indice des prix de vente dans l'industrie pour le carburant diesel pour la période de douze mois se terminant le dernier jour avant le trimestre qui précède immédiatement par rapport à l'indice des prix de vente dans l'industrie pour le carburant diesel pour la période de douze mois se terminant le 31 mars 1985.

15. Que le taux de la taxe sur les services de programmation fournis par voie de télécommunication soit majoré à sept pour cent.

16. Que la taxe ad valorem de consommation ou de vente soit imposée aux taux suivants:

- a) sept pour cent sur le prix de vente des marchandises énumérées à l'Annexe V de la Loi;
- b) quatorze pour cent sur le prix de vente des vins et de toutes les marchandises sur lesquelles un droit d'accise est imposé en vertu de la Loi sur l'accise, ou serait imposé en vertu de ladite Loi si les

(c) eleven per cent on the sale price of all goods not specified in any enactment founded on paragraph 11 or subparagraph 16(a) or (b) of this motion.

17. That printed matter imported

(a) by a government or a department, agency or representative thereof, or

(b) by any person, if the printed matter was produced or purchased outside Canada by or on the order of a government other than the Government of Canada or of a province or an incorporated municipal body, or a department, agency or representative thereof

for distribution without charge for the promotion of tourism be exempt from the consumption or sales tax.

18. That when printed matter is produced by or purchased on the order of a government or a department, agency or representative thereof for distribution without charge for the promotion of tourism, and the consumption or sales tax thereon has been paid, the Minister of National Revenue be authorized, on application by that government or department, agency or representative within two years from the time the printed matter was so produced or purchased, to pay to the applicant an amount equal to the tax so paid.

19. That logging boom chain for use exclusively in the operation of logging be exempt from the consumption or sales tax.

20. That the exemption from the consumption or sales tax for the energy conservation equipment mentioned in Part XVIII of Schedule III to the Act be repealed.

21. That the following goods be added to the lists of construction materials and equipment for buildings in Schedule V to the Act;

(a) heat pumps when designed for use in permanently installed heating systems for buildings;

(b) heat recovery units and devices for extracting heat from exhaust air or waste water for recovery of energy;

marchandises étaient produites ou fabriquées au Canada; et

c) onze pour cent sur le prix de vente de toutes les marchandises non spécifiées dans tout texte législatif fondé sur l'article 11 ou le paragraphe 16a) ou b) de la présente motion.

17. Que les imprimés qui sont importés

a) par une administration publique ou un de ses ministères, un de ses organismes ou leur représentant, ou

b) par toute personne, si les imprimés ont été produits ou achetés à l'extérieur du Canada par ou sur l'ordre d'un gouvernement autre que le gouvernement du Canada ou d'une province ou d'un corps municipal constitué en corporation, ou un de ses ministères, un de ses organismes ou leur représentant,

pour être distribués sans frais en vue de promouvoir le tourisme, soient exonérés de la taxe de consommation ou de vente.

18. Que, lorsque des imprimés sont produits par une administration publique ou un de ses ministères, un de ses organismes ou leur représentant, ou achetés sur l'ordre de l'un d'entre eux, pour être distribués sans frais en vue de promouvoir le tourisme, et que la taxe de consommation ou de vente à leur égard a été payée, le ministre du Revenu national soit autorisé, sur demande faite par cette administration publique ou ce ministère, cet organisme ou leur représentant dans un délai de deux ans à compter de la date à laquelle les imprimés ont été ainsi produits ou achetés, à verser au requérant un montant égal à la taxe ainsi payée.

19. Que les chaînes d'estacade devant servir exclusivement aux exploitations forestières soient exemptées de la taxe de consommation ou de vente.

20. Que l'exemption de la taxe de consommation ou de vente concernant le matériel pour économiser l'énergie mentionné dans la Partie XVIII de l'Annexe III de la Loi soit abrogée.

21. Que les marchandises suivantes soient ajoutées aux listes des matériaux de construction et du matériel pour bâtiments à l'Annexe V de la Loi:

a) pompes à chaleur lorsqu'elles sont conçues pour servir dans des systèmes de chauffage installés en permanence pour bâtiments;

b) appareils et dispositifs récupérateurs de chaleur pour tirer de la chaleur de l'air expulsé ou des eaux usées pour en récupérer l'énergie;

- (c) solar panels and tubes designed for collecting and converting solar energy into heat for use in solar heating systems;
- (d) thermal insulation designed for pipes and ducts used in buildings and mechanical systems; wrapping materials designed exclusively for use with such insulation;
- (e) wood burning stoves and wood burning space heaters; and
- (f) loading dock seals and shelters designed to conserve heated or refrigerated air during loading and unloading.

22. That the exemption from the consumption or sales tax for food and drink for human consumption be amended to exclude

- (a) non-alcoholic malt beverages,
- (b) carbonated beverages and goods for use in the preparation of carbonated beverages,
- (c) non-carbonated fruit juice beverages and fruit flavoured beverages, other than milk based beverages, containing less than 25 per cent by volume of
 - (i) a natural fruit juice or combination of natural fruit juices, or
 - (ii) a natural fruit juice or combination of natural fruit juices that have been reconstituted into the original state,
 and goods which, when added to water, produce a beverage described in any enactment founded on paragraph 22(c) of this motion, and
- (d) candies, confectionery that may be classed as candy, and all goods sold as candies, such as candy floss, chewing gum and chocolate, whether naturally or artificially sweetened, and including fruits, seeds, nuts and popcorn when coated or treated with candy, chocolate, honey, molasses, sugar, syrup or artificial sweeteners.

23. That a person who manufactures or produces carbonated beverages or non-carbonated fruit flavoured beverages, other than alcoholic beverages, having less than 25 per cent by volume of natural fruit content in a retail outlet for sale in that outlet exclusively and directly to consumers for immediate consumption, be deemed not to be, in relation to any such beverage so manufactured or produced by him, the manufacturer or producer thereof.

- c) panneaux et tubes solaires conçus pour capter l'énergie solaire et la transformer en énergie calorifique utilisée dans les systèmes de chauffage solaire;
- d) isolants thermiques conçus pour les conduits et tuyaux utilisés dans les immeubles et les dispositifs mécaniques; matières d'emballage conçues exclusivement pour être utilisées avec ces isolants;
- e) poêles à bois et chaufferettes à bois; et
- f) dispositifs d'étanchéité et abris de zone de chargement, conçus pour économiser l'air chauffé ou réfrigéré pendant le chargement et le déchargement.

22. Que l'exemption de la taxe de consommation ou de vente concernant les aliments et les boissons destinés à la consommation humaine soit modifiée pour exclure

- a) les boissons de malt non alcooliques,
- b) les boissons gazeuses et les marchandises devant servir à leur préparation,
- c) les boissons de jus de fruits et les boissons à saveur de fruits non gazeuses, autres que les boissons à base de lait, contenant moins de 25 pour cent par volume
 - (i) d'un jus de fruit naturel ou d'une combinaison de jus de fruits naturels, ou
 - (ii) d'un jus de fruit naturel ou d'une combinaison de jus de fruits naturels qui ont été reconstitués à l'état initial,

et les marchandises qui, lorsqu'elles sont ajoutées à de l'eau, produisent une boisson visée dans tout texte législatif fondé sur le paragraphe 22c) de la présente motion, et

- d) les bonbons, les confiseries qui peuvent être classées comme bonbons, et toutes les marchandises qui sont vendues au titre de bonbons, telles la barbe à papa, le chewing-gum et le chocolat, qu'elles soient naturellement ou artificiellement sucrées, et y compris les fruits, les graines, les noix et le maïs soufflé lorsqu'ils sont enduits ou traités avec du sucre candi, du chocolat, du miel, de la mélasse, du sucre, du sirop ou des édulcorants artificiels.

23. Qu'une personne qui fabrique ou produit des boissons gazeuses ou des boissons à saveur de fruits non gazeuses, autres que des boissons alcooliques, ayant moins de 25 pour cent par volume de contenu de fruits naturels dans un point de vente au détail pour les vendre, à ce point de vente, exclusivement et directement aux consommateurs pour consommation immédiate, soit réputée ne pas en être, relativement à cette

24. That the exemption from the consumption or sales tax for feeds for animals, fish, fowl or bees, and supplements for addition to such feeds, in Part V of Schedule III to the Act be limited to feeds, and supplements for addition to such feeds, for animals, fish, fowl or bees that are ordinarily raised to produce or to be used as food for human consumption.

25. That “health goods” be defined as any material, substance, mixture, compound or preparation, of whatever composition or in whatever form, sold or represented for use in the diagnosis, treatment, mitigation or prevention of a disease, disorder, abnormal physical state, or the symptoms thereof, in human beings or animals or for use in restoring, correcting or modifying organic functions in humans or animals.

26. That the definition “manufacturer or producer” in subsection 2(1) of the Act be amended to include any person who sells health goods, other than a person who sells such goods exclusively and directly to consumers.

27. That a manufacturer or producer of health goods described in any enactment founded on paragraph 26 of this motion, who imports health goods into Canada, be deemed to be the manufacturer or producer in Canada of the health goods so imported and not the importer thereof, and that the goods so imported be deemed to be goods produced or manufactured in Canada and not imported goods.

28. That the consumption or sales tax not be payable on health goods sold to or imported by a licensed manufacturer who is a manufacturer or producer described in any enactment founded on paragraph 26 of this motion.

29. That the exemption from the consumption or sales tax for health goods described in section 1 of Part VIII of Schedule III to the Act be limited to

(a) any drug described in Schedule D to the Food and Drugs Act,

boisson ainsi fabriquée ou produite par elle, le fabricant ou le producteur.

24. Que l'exemption de la taxe de consommation ou de vente concernant les aliments pour animaux, poissons, oiseaux ou abeilles, et les suppléments devant être ajoutés à ces aliments, dans la Partie V de l'Annexe III de la Loi soit limitée aux aliments, et aux suppléments devant être ajoutés à ces aliments, pour animaux, poissons, oiseaux ou abeilles qui sont ordinairement élevés pour produire des aliments destinés à la consommation humaine ou pour être utilisés à ce titre.

25. Que l'expression «marchandises relatives à la santé» soit définie comme les matières, substances, mélanges, composés ou préparations, quelle que soit leur composition ou leur forme, qui sont vendus pour servir au diagnostic, au traitement, à l'atténuation ou à la prévention d'une maladie, d'un trouble physique, d'un état physique anormal ou de leurs symptômes, chez l'homme ou les animaux, ou devant servir à la restauration, à la correction ou à la modification des fonctions organiques de l'homme ou des animaux.

26. Que la définition de «fabricant ou producteur» au paragraphe 2(1) de la Loi soit modifiée pour inclure toute personne qui vend des marchandises relatives à la santé, autre qu'une personne qui vend de telles marchandises exclusivement et directement aux consommateurs.

27. Qu'un fabricant ou un producteur de marchandises relatives à la santé, visé dans tout texte législatif fondé sur l'article 26 de la présente motion, qui importe de telles marchandises au Canada, soit réputé en être le fabricant ou le producteur au Canada et non leur importateur, et que les marchandises ainsi importées soient réputées être des marchandises produites ou fabriquées au Canada et non des marchandises importées.

28. Que la taxe de consommation ou de vente ne soit pas exigible sur les marchandises relatives à la santé vendues à un fabricant muni d'une licence, ou importées par celui-ci, qui est un fabricant ou un producteur visé dans tout texte législatif fondé sur l'article 26 de la présente motion.

29. Que l'exemption de la taxe de consommation ou de vente concernant les marchandises relatives à la santé qui sont décrites à l'article 1 de la Partie VIII de l'Annexe III de la Loi soit limitée à

a) toute drogue visée à l'Annexe D de la Loi des aliments et drogues,

(b) any drug containing a drug described in Schedule F to the Food and Drug Regulations made by the Governor in Council pursuant to the Food and Drugs Act,

(c) any drug containing a drug or other substance included in Schedule G to the Food and Drugs Act,

(d) any drug containing a narcotic included in the Schedule to the Narcotic Control Act other than a drug or mixture of drugs that may be sold by a pharmacist without a prescription pursuant to any regulations made by the Governor in Council pursuant to the Narcotic Control Act, and

(e) the following drugs: digoxin, digitoxin, deslanoside, erythrityl tetranitrate, isosorbide dinitrate, nitroglycerine, prenylamine, quinidine and its salts, aminophylline, oxtriphylline, theophylline, theophylline calcium aminoacetate, theophylline sodium aminoacetate and medical oxygen.

b) toute drogue contenant une drogue visée à l'Annexe F du Règlement sur les aliments et drogues établi par le gouverneur en conseil conformément à la Loi des aliments et drogues,

c) toute drogue contenant une drogue ou une autre substance comprise dans l'Annexe G de la Loi des aliments et drogues,

d) toute drogue contenant un stupéfiant compris dans l'Annexe de la Loi sur les stupéfiants, autre qu'une drogue ou un mélange de drogues qui peut être vendu par un pharmacien sans une ordonnance conformément à tout règlement établi par le gouverneur en conseil aux termes de la Loi sur les stupéfiants, et

e) les médicaments suivants: digoxine, digitoxine, deslanoside, tétranitrate d'érythrol, dinitrate d'isosorbide, trinitrate de glycéryle, prénylamine, quinidine et ses sels, aminophylline, oxtriphylline, théophylline, aminoacétate calcique de théophylline, aminoacétate sodique de théophylline et oxygène à usage médical.

30. That the exemption from the consumption or sales tax for those goods mentioned in sections 8, 9, 10 and 21 of Part VIII—Health—of Schedule III to the Act be repealed.

30. Que l'exemption de la taxe de consommation ou de vente concernant les marchandises mentionnées aux articles 8, 9, 10 et 21 de la Partie VIII—Santé—de l'Annexe III de la Loi soit abrogée.

31. That the exemption from the consumption or sales tax for needles and syringes designed for medical purposes in section 17 of Part VIII of Schedule III to the Act be limited to insulin syringes.

31. Que l'exemption de la taxe de consommation ou de vente concernant les aiguilles et les seringues conçues à des fins médicales dans l'article 17 de la Partie VIII de l'Annexe III de la Loi, soit limitée aux seringues à injections d'insuline.

32. That insulin infusion pumps and parts specially designed therefor be exempt from the consumption or sales tax.

32. Que les pompes à injections d'insuline et les pièces spécialement conçues pour ces pompes soient exemptées de la taxe de consommation ou de vente.

33. That blood glucose monitors and meters and parts and accessories specially designed therefor; urinary sugar testing strips, reagents or tablets; urinary ketone testing strips, reagents or tablets; blood sugar testing strips and blood ketone testing strips be exempt from the consumption or sales tax.

33. Que les dispositifs de contrôle de glycémie ainsi que les pièces et accessoires spécialement conçus pour ces dispositifs; les nécessaires à acétest, les réactifs ou les comprimés; les nécessaires à clinitest, les réactifs ou les comprimés; les nécessaires à la détermination de glycémie et les nécessaires à l'évaluation des corps cétoniques dans le sang soient exemptés de la taxe de consommation ou de vente.

34. That sanitary napkins, tampons, belts for sanitary napkins and articles and materials for use exclusively in their manufacture or production be exempt from the consumption or sales tax.

34. Que les serviettes sanitaires, les tampons, les ceintures de serviettes sanitaires ainsi que les articles et les matières devant servir exclusivement à leur fabrication ou production soient exemptés de la taxe de consommation ou de vente.

35. That contraceptives and articles and materials for use exclusively in their manufacture or production be exempt from the consumption or sales tax.
36. That subsection 26(4) of the Act, that deems manufacturers and producers of certain structures and building components not to be the manufacturer or producer of these products for certain purposes of the Act, be repealed.
37. That mobile homes, modular building units, ready-mix concrete and asphalt paving mixtures be added to the list of construction materials in Part I of Schedule V to the Act.
38. That buildings and other structures, and structural building sections for incorporation into buildings or other structures, manufactured or produced by a person deemed by subsection 26(4) of the Act not to be the manufacturer or producer of the products so manufactured or produced be added to the list of construction materials in Part I of Schedule V to the Act.
39. That the consumption or sales tax be imposed on only
- (a) seventy per cent during the period commencing on July 1, 1985 and ending on October 16, 1985, and
 - (b) fifty per cent on and after October 17, 1985
- of the sale price of mobile homes and modular building units.
40. That "mobile home" be defined as a trailer unit not less than three metres wide by eight metres long, equipped with complete plumbing, electrical and heating facilities and designed to be towed on its own chassis to a building site for installation on a foundation and connection to service facilities at that site and to be used for residential, commercial, educational, institutional or industrial purposes, but not to include any free standing appliances or furniture sold with the unit, or any trailer for recreational use such as travel trailers, motor homes and camping trailers.
41. That "modular building unit" be defined as a building component or unit designed for installation on a foundation and comprised of at least one room or area with finished walls, floors and ceilings, including
35. Que les contraceptifs ainsi que les articles et les matières devant servir exclusivement à leur fabrication ou production soient exemptés de la taxe de consommation ou de vente.
36. Que le paragraphe 26(4) de la Loi, qui considère les fabricants et producteurs de certaines structures et certains éléments de bâtiment comme n'étant pas les fabricants ou producteurs de ces produits à certaines fins de la Loi, soit abrogé.
37. Que les maisons mobiles, les bâtiments modulaires, le béton malaxé prêt à l'usage et les mélanges asphaltiques de pavage soient ajoutés à la liste des matériaux de construction à la Partie I de l'Annexe V de la Loi.
38. Que les bâtiments et autres structures, ainsi que les éléments porteurs destinés à être incorporés à des bâtiments ou autres structures, fabriqués ou produits par une personne considérée par le paragraphe 26(4) de la Loi comme n'étant pas le fabricant ou le producteur des produits ainsi fabriqués ou produits soient ajoutés à la liste des matériaux de construction à la Partie I de l'Annexe V de la Loi.
39. Que la taxe de consommation ou de vente soit imposée seulement sur
- a) soixante-dix pour cent, pour la période allant du 1^{er} juillet 1985 au 16 octobre 1985, et
 - b) cinquante pour cent, à partir du 17 octobre 1985, du prix de vente des maisons mobiles et des bâtiments modulaires.
40. Que l'expression «maison mobile» soit définie comme une remorque d'au moins trois mètres de largeur et huit mètres de longueur, équipée d'installations complètes de plomberie, d'électricité et de chauffage et conçue pour être remorquée sur son propre châssis jusqu'à un emplacement de construction pour y être placée sur des fondations et raccordée à des installations de service et à être utilisée à des fins résidentielles, commerciales, éducatives, institutionnelles ou industrielles, mais excluant les appareils ou les meubles non intégrés à la maison mobile et vendus avec celle-ci, ainsi que les remorques destinées aux loisirs telles que les remorques de tourisme, les maisons motorisées et les tentes roulottes.
41. Que l'expression «bâtiment modulaire» soit définie comme un élément de bâtiment ou un bâtiment conçu pour être placé sur des fondations et se composant d'au

installed plumbing, heating and electrical equipment appropriate to that room or area, the manufacture and assembly of which are completed or substantially completed prior to delivery to the construction site and which, when installed on a foundation at the site, with or without other similarly manufactured components or units, will form a complete residential, industrial, educational, institutional or commercial building, but not to include any free standing appliances or furniture sold with the unit.

42. That the definition “manufacturer or producer” in subsection 2(1) of the Act be amended to include any person who sells prerecorded video cassettes that are new or have not been used in Canada, other than a person who sells such goods exclusively and directly to consumers, and that for purposes of this definition, the term “consumers” not include a person who leases prerecorded video cassettes to other persons.

43. That the definition “manufacturer or producer” in subsection 2(1) of the Act be amended to include any person who leases prerecorded video cassettes that are new or have not been used in Canada, other than a person who leases such goods exclusively and directly to consumers, and that for the purposes of this definition, the term “consumers” not include a person who leases prerecorded video cassettes to other persons.

44. That a manufacturer or producer of prerecorded video cassettes described in any enactment founded on paragraph 42 or 43 of this motion, who imports into Canada prerecorded video cassettes that are new or have not been used in Canada, be deemed to be the manufacturer or producer in Canada of the prerecorded video cassettes so imported and not the importer thereof, and that the goods so imported be deemed to be goods produced or manufactured in Canada and not imported goods.

45. That the consumption or sales tax not be payable on prerecorded video cassettes that are new or have not been used in Canada, sold to or imported by a manufacturer or producer described in any enactment founded on paragraph 42 of this motion who is a licensed manufacturer under the Act.

moins une pièce ou un espace dont les murs, les planchers et les plafonds sont finis, et comprenant l'équipement de plomberie, de chauffage et d'électricité installé qui convient à cette pièce ou à cet espace, dont la fabrication et l'assemblage sont terminés ou sensiblement terminés avant d'être livré à l'emplacement de construction et qui, lorsqu'il sera placé sur des fondations à cet emplacement, avec ou sans autres éléments ou bâtiments de fabrication semblable, constituera un bâtiment résidentiel, industriel, éducatif, institutionnel ou commercial complet, mais excluant les appareils ou les meubles non intégrés au bâtiment et vendus avec celui-ci.

42. Que la définition de «fabricant ou producteur» au paragraphe 2(1) de la Loi soit modifiée pour comprendre toute personne qui vend des vidéo-cassettes préenregistrées qui sont neuves ou n'ont pas été utilisées au Canada, autre qu'une personne qui vend de telles marchandises exclusivement et directement aux consommateurs, et que, aux fins de cette définition, le terme «consommateurs» ne comprenne pas une personne qui loue des vidéo-cassettes préenregistrées à d'autres personnes.

43. Que la définition de «fabricant ou producteur» au paragraphe 2(1) de la Loi soit modifiée pour comprendre toute personne qui loue des vidéo-cassettes préenregistrées qui sont neuves ou n'ont pas été utilisées au Canada, autre qu'une personne qui loue de telles marchandises exclusivement et directement aux consommateurs, et que, aux fins de cette définition, le terme «consommateurs» ne comprenne pas une personne qui loue des vidéo-cassettes préenregistrées à d'autres personnes.

44. Que tout fabricant ou producteur de vidéo-cassettes préenregistrées, visé dans toute texte législatif fondé sur l'article 42 ou 43 de la présente motion, qui importe au Canada des vidéo-cassettes préenregistrées qui sont neuves ou n'ont pas été utilisées au Canada, soit réputé en être le fabricant ou le producteur au Canada et non leur importateur, et que les marchandises ainsi importées soient réputées être des marchandises produites ou fabriquées au Canada et non des marchandises importées.

45. Que la taxe de consommation ou de vente ne soit pas exigible sur les vidéo-cassettes préenregistrées qui sont neuves ou n'ont pas été utilisées au Canada et qui sont vendues à, ou importées par un fabricant ou un producteur visé dans tout texte législatif fondé sur l'article 42

46. That the consumption or sales tax not be payable on prerecorded video cassettes that are new or have not been used in Canada leased to a manufacturer or producer described in any enactment founded on paragraph 43 of this motion who is a licensed manufacturer under the Act.

47. That the Minister of National Revenue be authorized to determine the value for tax of prerecorded video cassettes for the purpose of calculating the consumption of sales tax payable by the licensed manufacturer who produced the goods in Canada for a non-resident person who is the manufacturer or producer of those prerecorded video cassettes pursuant to any enactment founded on paragraph 42 or 43 of this motion and who fails to apply for a licence as required by section 31 of the Act.

48. That Subsections 2(3), (4), (4.1) and (4.2) of the Act, and any enactment founded on paragraph 27 or 44 of this motion, not apply to a member of a class of small manufacturer or producer that is exempted by regulations made under subsection 31(2) of the Act from the requirement of subsection 31(1) of the Act to apply for a licence.

49. That penalty and interest on late payments of taxes payable or collectible under the Act, other than Part I, not be payable where the taxes are paid in full and the aggregate of the penalty and interest imposed on the amount paid after the time prescribed for payment is less than ten dollars.

50. That where a licensed manufacturer or licensed wholesaler has purchased goods and has incorrectly stated or certified that the goods were being purchased for a use or under conditions that render the sale exempt from tax and the licensed manufacturer or licensed wholesaler from whom he purchased the goods establishes that he acted in good faith and with due care and diligence in accepting the statement or certificate of the purchaser, the purchaser alone be liable for payment of the tax and any penalty and interest imposed on late payment.

51. That the Governor in Council be authorized to make regulations designating certain classes of goods as ships' stores and prescribing limits on the quantities of such

de la présente motion qui est un fabricant muni d'une licence en vertu de la Loi.

46. Que la taxe de consommation ou de vente ne soit pas exigible sur les vidéo-cassettes préenregistrés qui sont neuves ou n'ont pas été utilisées au Canada et qui sont louées à un fabricant ou un producteur visé dans tout texte législatif fondé sur l'article 43 de la présente motion qui est un fabricant muni d'une licence en vertu de la Loi.

47. Que le ministre du Revenu national soit autorisé à déterminer la valeur imposable des vidéo-cassettes préenregistrées afin de calculer la taxe de consommation ou de vente payable par le fabricant muni d'une licence qui a produit les marchandises au Canada pour une personne non résidente qui est le fabricant ou le producteur de ces vidéo-cassettes préenregistrées conformément à tout texte législatif fondé sur l'article 42 ou 43 de la présente motion et qui omet de demander une licence, tel que l'exige l'article 31 de la Loi.

48. Que les paragraphes 2(3), (4), (4.1) et (4.2) de la Loi, et tout texte législatif fondé sur l'article 27 ou 44 de la présente motion, ne s'appliquent pas à un membre d'une catégorie de petits fabricants ou producteurs qui est exemptée par des règlements établis en vertu du paragraphe 31(2) de la Loi de demander une licence tel que l'exige le paragraphe 31(1) de la Loi.

49. Que l'amende et l'intérêt sur les versements en retard des taxes à payer ou à percevoir en vertu de la Loi, autre que la Partie I, ne soient pas exigibles lorsque les taxes sont totalement acquittées et que l'ensemble de l'amende et de l'intérêt imposés sur le montant payé après la date de paiement prescrite est moindre que dix dollars.

50. Que, lorsqu'un fabricant ou grossiste muni d'une licence a acheté des marchandises et a incorrectement exposé ou certifié que les marchandises étaient achetées pour un usage ou dans des conditions qui rendent la vente libre de la taxe et que le fabricant ou le grossiste muni d'une licence de qui il a acheté les marchandises établit qu'il a agi de bonne foi et avec soin et diligence en acceptant la déclaration ou le certificat de l'acheteur, l'acheteur seul soit responsable du paiement de la taxe ainsi que de toute amende et tout intérêt imposés sur le paiement en retard.

51. Que le gouverneur en conseil soit autorisé à établir des règlements pour désigner certaines catégories de marchandises comme approvisionnements de navire et

goods and classes of conveyances on which such goods may be used for the purposes of determining any refund or drawback that may be provided of taxes imposed under the Act.

52. That where a corporation has committed an offence under the Act, every officer, director or agent of the corporation, who directed, authorized, assented to, acquiesced in, or participated in the commission of the offence, be a party to and guilty of the offence and liable on summary conviction to the punishment provided for the offence, whether or not the corporation has been prosecuted or convicted.

53. That the relief from payment of excise tax on partly manufactured goods be restricted to goods for incorporation into articles or products that are subject to excise tax but on which the tax has not yet been levied.

54. That the definition "partly manufactured goods" in subsection 26(1) of the Act be restricted to goods for incorporation into articles that are subject to the consumption or sales tax but on which the tax has not yet been levied.

55. That where tax under Part III or V of the Act has been paid in respect of any goods that a licensed manufacturer gives away as free replacement parts under a written warranty given in respect of goods of which he is the manufacturer under the Act and into which such parts are to be incorporated, and the amount, if any, charged for the warranty is included in the sale price charged by him for the goods into which the parts are to be incorporated or, if those goods are imported goods, in the duty paid value thereof, the Minister of National Revenue be authorized, on application by the manufacturer who gave away the goods as free replacement parts, within two years of when the parts were given away, to pay to him a refund of an amount equal to the amount of the tax.

56. That the Natural Gas and Gas Liquids Tax be repealed.

57. That any right to a refund or payment of taxes or other monies, or to a deduction in respect of such refund

pour prescrire des limites relativement aux quantités de telles marchandises et les catégories de transporteurs sur lesquels lesdites marchandises peuvent être utilisées afin de déterminer tout remboursement ou drawback prévu des taxes imposées en vertu de la Loi.

52. Que, lorsqu'une corporation a commis une infraction aux termes de la Loi, tout fonctionnaire, administrateur ou mandataire de la corporation qui a ordonné ou autorisé l'infraction, ou y a donné son assentiment ou son acquiescement ou y a participé, soit partie à l'infraction et en soit coupable, et soit passible, sur déclaration sommaire de culpabilité, de la peine prévue concernant l'infraction, que la corporation ait fait ou non l'objet de poursuites ou de condamnation.

53. Que l'exonération du paiement de la taxe d'accise sur les marchandises partiellement fabriquées soit restreinte aux marchandises devant être incorporées dans des articles ou des produits qui sont assujettis à la taxe d'accise mais sur lesquels la taxe n'a pas encore été prélevée.

54. Que la définition de l'expression «marchandises partiellement fabriquées» au paragraphe 26(1) de la Loi soit restreinte aux marchandises devant être incorporées dans des articles qui sont assujettis à la taxe de consommation ou de vente mais sur lesquels la taxe n'a pas encore été prélevée.

55. Que, lorsque la taxe a été payée en vertu de la Partie III ou V de la Loi sur toutes marchandises qu'un fabricant muni d'une licence donne comme pièces de remplacement gratuites dans le cadre d'une garantie écrite fournie relativement aux marchandises dont il est le fabricant en vertu de la Loi et dans lesquelles lesdites pièces doivent être incorporées et que le montant, s'il en est, qui a été demandé pour la garantie est compris dans le prix de vente qu'il a exigé pour lesdites marchandises ou, si lesdites marchandises sont des marchandises importées, dans leur valeur à l'acquitté, le ministre du Revenu national soit autorisé, sur demande du fabricant qui a donné les marchandises comme pièces de remplacement gratuites, dans un délai de deux ans à compter de la date à laquelle les pièces ont été données, à verser à ce fabricant un remboursement d'un montant égal à celui de la taxe.

56. Que la taxe sur le gaz naturel et sur les liquides extraits du gaz naturel soit abrogée.

57. Que tout droit à un remboursement ou à un paiement de taxes ou d'autres sommes d'argent, ou à une

or payment, arising under section 44 of the Act be extinguished unless application in writing for such refund, payment or deduction is made within four years after the earliest time at which such an application could have been made and that no refund or payment be paid and no deduction be authorized in respect thereof where no application was made for a refund or payment of the taxes or monies or a deduction in respect of such refund or payment in that four year period.

58. That any right to a refund or payment of taxes or other monies, or to a deduction in respect of such refund or payment, be extinguished unless application in writing for such refund, payment or deduction is made within two years after the earliest time at which such an application could have been made and that no refund or payment be paid and no deduction be authorized in respect thereof where no application was made for a refund or payment of the taxes or monies or a deduction in respect of such refund or payment in the two year period.

59. That section 63 of the Act be replaced with a provision whereby every person who knowingly collects any sum as a tax payable under the Act where such a sum is not then payable under the Act and would not become so payable upon the enactment of legislation founded on a notice of ways and means motion that has been tabled in the House of Commons is guilty of an offence and liable on summary conviction to a fine in an amount equal to not less than one hundred per cent and not more than one hundred and twenty-five per cent of the sum so collected.

60. That Part III.1 of the Act be repealed.

61. That the requirement in subsection 10(3.1) of the Act that the air transportation tax payable by a person in the circumstances described in that subsection be the amount prescribed by order of the Governor in Council pursuant to paragraph 10(2)(b) of the Act apply only where an amount is prescribed by order of the Governor in Council.

62. That the limitation in paragraph 11.1(1)(a) of the Act on the taxes imposed on the transportation of a person by air on a continuous journey where two or

déduction à l'égard dudit remboursement ou paiement, découlant de l'article 44 de la Loi soit éteint, sauf si une demande par écrit en vue de ce remboursement, paiement ou de cette déduction est faite dans un délai de quatre ans suivant la date la plus éloignée à laquelle une telle demande aurait pu être faite et que nul remboursement ni paiement ne soit versé et nulle déduction ne soit autorisée à leur égard si aucune demande n'a été faite en vue d'un remboursement ou d'un paiement des taxes ou des sommes d'argent ou d'une déduction à l'égard de ce remboursement ou paiement au cours de cette période de quatre ans.

58. Que tout droit à un remboursement ou à un paiement de taxes ou d'autres sommes d'argent, ou à une déduction à l'égard dudit remboursement ou paiement, soit éteint, sauf si une demande par écrit en vue de ce remboursement, paiement ou de cette déduction est faite dans un délai de deux ans suivant la date la plus éloignée à laquelle une telle demande aurait pu être faite et que nul remboursement ni paiement ne soit versé et nulle déduction ne soit autorisée à leur égard si aucune demande n'a été faite en vue d'un remboursement ou d'un paiement des taxes ou des sommes d'argent ou d'une déduction à l'égard de ce remboursement ou paiement au cours de la période de deux ans.

59. Que l'article 63 de la Loi soit remplacé par une disposition selon laquelle toute personne qui sciemment perçoit une somme d'argent au titre d'une taxe payable en vertu de la Loi lorsqu'une telle somme n'est pas alors payable aux termes de la Loi et qu'elle ne deviendrait pas par la suite ainsi payable en vertu d'un texte législatif fondé sur un avis de motion des voies et moyens qui a été déposé à la Chambre des communes est coupable d'une infraction et passible, sur déclaration sommaire de culpabilité, d'une amende dont le montant représente au moins cent pour cent et au plus cent vingt-cinq pour cent de la somme ainsi perçue.

60. Que la Partie III.1 de la Loi soit abrogée.

61. Que la disposition du paragraphe 10(3.1) de la Loi voulant que la taxe sur le transport aérien payable par une personne dans les circonstances visées à ce paragraphe corresponde au montant fixé par décret du gouverneur en conseil pris conformément à l'alinéa 10(2)b) de la Loi ne s'applique que dans le cas où un montant est fixé par décret du gouverneur en conseil.

62. Que la limite, prévue à l'alinéa 11.1(1)a) de la Loi, sur les taxes imposées sur le transport aérien d'une personne lors d'un voyage continu dans le cas où deux ou

more amounts are paid or payable at the same time apply only where an amount is prescribed by order of the Governor in Council.

63. That any enactment founded on

- (a) paragraph 34 come into force on March 22, 1984;
- (b) paragraphs 1, 2, 17, 19, 35, 53, 54 and 58 come into force on May 24, 1985;
- (c) paragraphs 11 to 14 and 56 come into force on June 1, 1985;
- (d) paragraphs 20 to 32, 36 to 38, 40 to 42, 44, 45 and 47 come into force on July 1, 1985;
- (e) paragraphs 61 and 62 come into force on September 1, 1985;
- (f) paragraphs 6 to 10 come into force on September 3, 1985;
- (g) paragraph 33 come into force on September 7, 1985;
- (h) paragraphs 43, 46 and 48 come into force on November 1, 1985;
- (i) paragraphs 15 and 16 come into force on January 1, 1986; and
- (j) paragraphs 49 to 52, 55, 59 and 60 come into force on the first day of the second month following Royal Assent to such enactment.

64. That any enactment founded on paragraph 3 of this motion come into force on May 23, 1985 at 3:30 o'clock in the afternoon eastern standard time.

65. That any enactment founded on paragraph 57 of this motion come into force on May 24, 1985 and apply only to any refunds or payments to be paid and to any deductions in respect of a refund or payment to be authorized on or after that date where the entitlement to the refund or payment arose prior to May 24, 1985, whether an application in writing therefor is made or proceedings therefor are commenced on, before or after that date.

66. That any enactment founded on paragraph 18 of this motion come into force on May 24, 1985 and apply in respect of taxes paid on or after that date.

plusieurs montants sont payés ou payables simultanément ne s'applique que lorsqu'un montant est fixé par décret du gouverneur en conseil.

63. Que tout texte législatif fondé sur

- a) l'article 34 entre en vigueur le 22 mars 1984;
- b) les articles 1, 2, 17, 19, 35, 53, 54, et 58 entre en vigueur le 24 mai 1985;
- c) les articles 11 à 14 et 56 entre en vigueur le 1^{er} juin 1985;
- d) les articles 20 à 32, 36 à 38, 40 à 42, 44, 45 et 47 entre en vigueur le 1^{er} juillet 1985;
- e) les articles 61 et 62 entre en vigueur le 1^{er} septembre 1985;
- f) les articles 6 à 10 entre en vigueur le 3 septembre 1985;
- g) l'article 33 entre en vigueur le 7 septembre 1985;
- h) les articles 43, 46 et 48 entre en vigueur le 1^{er} novembre 1985;
- i) les articles 15 et 16 entre en vigueur le 1^{er} janvier 1986; et
- j) les articles 49 à 52, 55, 59 et 60 entre en vigueur le premier jour du deuxième mois suivant la Sanction Royale d'un tel texte législatif.

64. Que tout texte législatif fondé sur l'article 3 de la présente motion entre en vigueur le 23 mai 1985 à 15 h 30, heure normale de l'Est.

65. Que tout texte législatif fondé sur l'article 57 de la présente motion entre en vigueur le 24 mai 1985 et ne s'applique qu'aux remboursements ou paiements devant être versés et aux déductions à l'égard d'un remboursement ou d'un paiement devant être autorisées à cette date et par la suite si le droit au remboursement ou au paiement est survenu avant le 24 mai 1985, qu'une demande par écrit soit faite ou que des procédures soient intentées à cet égard avant, après ou à cette date.

66. Que tout texte législatif fondé sur l'article 18 de la présente motion entre en vigueur le 24 mai 1985 et s'applique à l'égard des taxes payées à compter de cette date.

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE TAX ACT (2)

That it is expedient to introduce a measure to amend the Excise Tax Act and to provide among other things:

1. That the authority to grant refunds in respect of overpayments of tax and taxes paid in error be replaced with a similar authority to make payments in an amount equal to the amount of any moneys paid in error, otherwise than pursuant to an assessment, and that such amount be payable to the person who paid those moneys in error if that person files a refund application for that amount with the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance within two years after the moneys were so paid in error.
2. That the authority to grant a refund in respect of stamps that are returned for exchange due to changes in statutory rates of tax or for other reasons be repealed.
3. That the refund, rebate, drawback and other payment provisions of the Act be amended to clarify entitlements and procedures.
4. That rights to recover any moneys paid to Her Majesty that are taken into account as taxes, interest, penalties or other sums under the Act be limited to those rights provided in the Act or any other Act of Parliament.
5. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance be authorized to prescribe forms and the information to be given thereon.
6. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance be required, on receipt of a refund application, to determine the amount payable to the applicant, to notify the applicant of his determination and to pay to the applicant any amount which he determines is payable to him.
7. That any person be permitted to claim (instead of filing a refund application in respect of Part I of the Act and subject to assessment) a deduction from any payment of tax or other sums under Part I of the Act if

AVIS DE MOTION DES VOIES ET MOYENS MODIFIANT LA LOI SUR LA TAXE D'ACCISE (2)

Qu'il y a lieu de présenter un projet de loi afin de modifier la Loi sur la taxe d'accise et de prévoir entre autres:

1. Que le pouvoir d'accorder des remboursements à l'égard des paiements en trop de la taxe et des taxes payées par erreur soit remplacé par un pouvoir semblable de verser des paiements d'un montant égal au montant de toutes les sommes payées par erreur, autrement que par suite d'une cotisation, et qu'un tel montant soit payable à la personne qui a payé ces sommes par erreur si cette personne produit auprès du ministre du Revenu national une demande de remboursement concernant ce montant ou, dans le cas de la Partie I de la Loi, auprès du ministre des Finances, dans un délai de deux ans après que les sommes sont ainsi payées par erreur.
2. Que le pouvoir d'accorder un remboursement à l'égard de timbres qui sont retournés pour être échangés par suite de modifications apportées aux taux de taxe statutaires ou d'autres raisons soit abrogé.
3. Que les dispositions de la Loi relatives aux remboursements, aux ristournes, aux drawbacks et autres paiements soient modifiées afin de préciser qui y a droit et selon quelles procédures.
4. Que les droits de recouvrer des deniers versés à Sa Majesté dont il est tenu compte au titre de taxes, d'intérêts, d'amendes ou autres sommes en vertu de la Loi soient limités aux droits prévus dans la Loi ou dans toute autre loi du Parlement.
5. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances soit autorisé à prescrire des formulaires et les renseignements qui doivent y apparaître.
6. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances soit tenu, sur réception d'une demande de remboursement, de déterminer le montant payable au requérant, de notifier celui-ci de sa détermination et de lui verser tout montant qu'il détermine lui être payable.
7. Que toute personne puisse (au lieu de produire une demande de remboursement à l'égard de la Partie I de la Loi et sous réserve d'une cotisation) demander une déduction sur tout paiement de la taxe ou d'autres

the return in which the deduction is claimed is filed with the Minister of Finance within the time limited for filing a refund application in respect of the subject matter of the deduction.

8. That any person, other than a person who has been otherwise directed by the Minister of National Revenue, be permitted to claim (on such grounds and in such circumstances as the Minister may prescribe, instead of filing a refund application in respect of Parts II to V of the Act and subject to assessment) a deduction from any payment of tax or other sums under section 17 or 50 of the Act if the return in which the deduction is claimed is filed within the time limited for filing a refund application in respect of the subject matter of the deduction.

9. That where a person so requests in a refund application in respect of Parts II to V of the Act, the Minister of National Revenue be permitted to authorize a deduction from any payment of tax or other sum under section 17 or 50 of the Act instead of paying the amount otherwise payable, and that where a deduction has been authorized, no interest be payable in respect of the amount otherwise payable for any day after notice of the Minister's determination respecting the refund application is sent to the applicant.

10. That the authority of the Minister of National Revenue to authorize the making of a return in respect of an accounting period of less than one month be replaced with an authority to authorize the making of a return in respect of an accounting period of less than twenty-one days and not more than thirty-five days, and that any person so be authorized required to file such return and pay the tax payable for that period not later than the last day of the first accounting period succeeding that in which the tax became payable.

11. That interest or penalty which accrues in respect of defaults in payments or remittances of taxes payable or collectible under the Act, other than Part I, be required to be paid not later than the last day of the month in respect of which the interest or penalty was calculated and, for each month or part thereof during which any default in payment or remittance of tax, penalty or interest continues, be calculated on the total tax, penalty and interest outstanding.

sommes en vertu de la Partie I de la Loi sur la déclaration dans laquelle la déduction est demandée est produite auprès du ministre des Finances dans le délai prévu pour la production d'une demande de remboursement à l'égard de l'objet de la déduction.

8. Que toute personne, autre qu'une personne à qui le ministre du Revenu national l'a ordonné autrement, puisse (selon les raisons et dans les circonstances que le Ministre peut prescrire, au lieu de produire une demande de remboursement à l'égard des Parties II à V de la Loi et sous réserve d'une cotisation) demander une déduction sur tout paiement de la taxe ou d'autres sommes en vertu de l'article 17 ou 50 de la Loi si la déclaration dans laquelle la déduction est demandée est produite dans le délai prévu pour la production d'une demande de remboursement à l'égard de l'objet de la déduction.

9. Que, lorsqu'une personne le sollicite dans une demande de remboursement à l'égard des Parties II à V de la Loi, le ministre du Revenu national puisse, au lieu de verser le montant par ailleurs payable, autoriser une déduction sur tout montant de la taxe ou d'autres sommes en vertu de l'article 17 ou 50 de la Loi, et que, lorsqu'une déduction a été autorisée, nul intérêt ne soit payable relativement au montant par ailleurs payable à l'égard de toute journée suivant la date d'envoi au requérant de l'avis de la détermination du Ministre concernant la demande de remboursement.

10. Que le pouvoir du ministre du Revenu national d'autoriser l'établissement d'une déclaration à l'égard d'une période comptable de moins d'un mois soit remplacé par le pouvoir d'autoriser l'établissement d'une déclaration à l'égard d'une période comptable d'au moins vingt-et-un jours et d'au plus trente-cinq jours, et que toute personne ainsi autorisée soit tenue de produire une telle déclaration et de payer la taxe exigible pour cette période au plus tard le dernier jour de la première période comptable suivant celle pendant laquelle la taxe est devenue exigible.

11. Que le paiement de l'amende ou des intérêts qui courent pour défaut de paiement ou défaut de remise de taxes payables ou qui devraient être perçues en vertu de la Loi, à l'exception de la Partie I, soit exigé au plus tard le dernier jour du mois à l'égard duquel l'amende ou les intérêts ont été calculés et que, pour chaque mois, ou fraction de mois, de durée du défaut de paiement ou défaut de remise de la taxe, de l'amende ou des intérêts, l'amende ou les intérêts soient calculés sur la somme totale de la taxe, de l'amende et des intérêts impayés.

12. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance

(a) be authorized to accept security for the payment of any tax or other sum payable under the Act,

(b) be required to accept adequate security furnished for the payment of any tax or other sum that is the subject of an objection or appeal, and

(c) be required, on the request of the person by whom or on whose behalf security has been so given, to surrender any such security to the extent that the value thereof, at the time of the request, exceeds the amount of the tax or other sum payable for payment of which the security was given,

and that the monthly penalty of one-half of one per cent for default in payment of tax or other sums under Parts II to VI of the Act not apply, during the time that security is so held by the Minister of National Revenue, to the extent of the value of the security at the time it was given.

13. That the liability under section 51 of the Act of a person who distributes assets under his control without first obtaining a certificate as required by that section be limited to the lesser of the value of the assets so distributed and the amount in respect of taxes and other sums remaining unpaid for which he is otherwise liable under that section for failure to comply with the requirements of the section.

14. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance be authorized

(a) to assess any person for any tax or other sum payable in respect of any matter by him under the Act within four years after the tax or other sum became payable and to make such additional assessments, as the circumstances require, within the time so limited,

(b) to vary an assessment or to reassess a person in respect of any matter covered by an assessment of that person, within the time otherwise limited for assessing that person, or at any time in accordance with a decision on an objection or appeal respecting that assessment, and

(c) to assess or reassess a person in respect of any matter at any time where, in respect of that matter, that person has made a misrepresentation attributable to his neglect, carelessness or willful default or

12. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances

a) soit autorisé à accepter une garantie à l'égard du paiement de toute taxe ou autre somme payable en vertu de la Loi,

b) soit tenu d'accepter une garantie appropriée fournie à l'égard du paiement de toute taxe ou autre somme faisant l'objet d'une opposition ou d'un appel, et

c) soit tenu, sur demande de la personne par qui ou pour le compte de laquelle la garantie a été ainsi donnée, de renoncer à une telle garantie dans la mesure où sa valeur, au moment de la demande, excède le montant de la taxe ou autre somme payable pour lequel la garantie a été donnée,

et que l'amende mensuelle de un demi pour cent pour défaut de paiement de la taxe ou d'autres sommes en vertu des Parties II à VI de la Loi ne s'applique pas, pendant la période où cette garantie est ainsi détenue par le ministre du Revenu national, dans la mesure de la valeur de la garantie au moment où elle a été donnée.

13. Que la responsabilité, aux termes de l'article 51 de la Loi, d'une personne qui distribue des biens sous son contrôle sans obtenir au préalable un certificat, tel que l'exige cet article, soit limitée au montant le moins élevé de la valeur des biens ainsi distribués ou du montant au titre des taxes et autres sommes demeurant impayé pour lequel ladite personne est par ailleurs responsable en vertu de cet article pour omission de se conformer aux dispositions dudit article.

14. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances soit autorisé

a) à établir une cotisation pour toute personne à l'égard d'une taxe ou autre somme payable par elle relativement à toute matière en vertu de la Loi dans un délai de quatre ans auprès que la taxe ou autre somme soit devenue payable et à établir des cotisations supplémentaires, selon les circonstances, dans le délai ainsi prévu,

b) à modifier une cotisation ou en établir une nouvelle pour une personne à l'égard de toute matière faisant l'objet d'une cotisation pour cette personne, dans le délai par ailleurs prévu pour établir la cotisation, ou en tout temps conformément à une décision sur une opposition ou un appel concernant cette cotisation, et

c) à établir une cotisation ou en établir une nouvelle pour une personne à l'égard de toute matière en tout temps lorsque, relativement à cette matière,

has committed fraud in filing a return or in supplying information under the Act or in failing to do so.

15. That any person who may be assessed be permitted
- (a) to waive, for the time specified in the waiver, the time limited to the Minister of National Revenue or the Minister of Finance for assessing that person in relation to any matter specified in the waiver, and
 - (b) to revoke any waiver so given on six months notice to the Minister of National Revenue of the Minister of Finance, as the case may require, and that such Minister be authorized, where he is entitled to assess a person by virtue only of a waiver so given, to assess that person in relation to any matter specified in the waiver not later than the last day of the period specified in the waiver, or where such waiver has been revoked, not later than six months after notice of the revocation is filed with him.

16. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance be authorized, in making an assessment, to determine whether a refund or other payment, other than a rebate or drawback, is payable to the person being assessed, and that for that purpose, an amount that would otherwise be payable to him had he filed an application therefor on the day the assessment is made be deemed, for the purposes of the assessment, to be so payable to him without a refund application therefor being filed, if the assessment is made within the time limited by the Act for filing a refund application for that refund or payment.

17. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance be authorized to allow a credit against taxes and other sums assessed in an amount equal to the amount of the refund or other payment, other than a rebate or drawback, that would otherwise be payable to the person being assessed had he filed a refund application therefor on the day the assessment is made and the time limited for filing such refund application had been four years

cette personne a fait une présentation erronée des faits attribuable à sa négligence, son inattention ou son retard délibéré, ou qu'elle a commis une fraude en produisant une déclaration ou en fournissant des renseignements en vertu de la Loi ou en omettant de le faire.

15. Que toute personne qui peut faire l'objet d'une cotisation puisse

- a) renoncer, pour la période spécifiée dans l'avis de renonciation, au délai prévu dont dispose le ministre du Revenu national ou le ministre des Finances pour établir une cotisation relativement à toute matière spécifiée dans l'avis de renonciation, et
- b) annuler tout avis de renonciation ainsi donné en donnant au ministre du Revenu national ou au ministre des Finances, selon le cas, un préavis de six mois,

et que le Ministre soit autorisé, lorsqu'il a le droit d'établir une cotisation pour une personne en vertu uniquement d'un avis de renonciation ainsi donné, à établir une telle cotisation relativement à toute matière spécifiée dans l'avis de renonciation au plus tard le dernier jour de la période mentionnée dans l'avis ou, lorsqu'un tel avis a été annulé, au plus tard six mois suivant la date à laquelle l'avis d'annulation lui a été signifié.

16. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances soit autorisé, lors de l'établissement d'une cotisation, à déterminer si un remboursement ou un autre paiement, à l'exception d'une ristourne ou d'un drawback, est payable à la personne qui fait l'objet de la cotisation et que, à cette fin, le montant qui lui aurait autrement été payable si elle avait produit une demande à cet égard à la date de l'établissement de la cotisation soit réputé, aux fins de la cotisation, lui être ainsi payable sans qu'une demande de remboursement ne soit produite, si la cotisation est établie dans le délai prévu par la Loi pour produire une telle demande en vue de ce remboursement ou de ce paiement.

17. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances soit autorisé à accorder un crédit en regard des taxes et autres sommes fixées dans une cotisation d'un montant égal à celui du remboursement ou autre paiement, à l'exception d'une ristourne ou d'un drawback, qui aurait par ailleurs été payable à la personne qui fait l'objet d'une cotisation si elle avait produit une demande de remboursement à cet égard à la date de l'établissement de la cotisation et que le délai prévu pour produire une

instead of the time otherwise limited by the Act, except that

(a) no such credit include the amount of any refund or payment which is otherwise payable to the person being assessed, and

(b) the aggregate of such credits allowed not exceed the aggregate of any tax and other sums assessed remaining unpaid by the person being assessed for the period commencing four years before the day on which the assessment is made and ending immediately before two years before that day.

18. That any person assessed be notified of the assessment, and that such notice set out the amounts of any tax or other sums payable under the Act by the person assessed and remaining unpaid, the amounts of any credits against taxes and other sums payable which may be allowed, the amounts of any refunds or other payments determined to be payable to the person being assessed and the net amount payable by or to the person assessed, and that

(a) the net amount payable by the person assessed be recoverable in accordance with the procedures set out in any enactment founded on paragraphs 34 and 35 of this motion, and

(b) the Minister of National Revenue or the Minister of Finance, as the case may be, be required to pay to the person assessed the net amount payable to him, together with interest thereon at the rate prescribed under the Act from the day the assessment is made to the day payment of the amount payable is sent to the person assessed.

19. That where a refund application is rejected by the Minister of National Revenue or the Minister of Finance, as the case may be, or where a person is assessed for taxes or other sums payable under the Act, the applicant or person assessed be entitled, within ninety days after notice of the assessment or the Minister's determination respecting the refund application is sent to him, to file a notice of objection with such Minister respecting the assessment or determination.

20. That upon receipt of a notice of objection, the Minister of National Revenue or the Minister of Finance, as the case may be, be required to reconsider the determination or assessment to which the notice of objection relates and to confirm, vary or vacate the

telle demande avait été de quatre ans au lieu du délai par ailleurs prévu par la Loi, sauf que

a) nul semblable crédit ne comprenne le montant de tout remboursement ou paiement qui est autrement payable à la personne faisant l'objet de la cotisation, et

b) l'ensemble desdits crédits accordés n'excède pas le total de toute taxe et autres sommes fixées dans une cotisation et demeurant impayées par la personne faisant l'objet de la cotisation pour la période commençant quatre ans avant la date de l'établissement de la cotisation et se terminant deux ans et un jour avant cette date.

18. Que toute personne faisant l'objet d'une cotisation en soit notifiée, et qu'un tel avis expose les montants de toute taxe ou autres sommes payables par elle en vertu de la Loi et demeurant impayées, les montants de tous les crédits en regard des taxes et autres sommes payables qui peuvent être accordés, les montants de tous les remboursements ou autres paiements qui ont été déterminés comme lui étant payables et le montant net qui est exigible d'elle ou lui est payable, et que

a) le montant net exigible de la personne faisant l'objet de la cotisation soit recouvrable conformément aux procédures énoncées dans tout texte législatif fondé sur les articles 34 et 35 de la présente motion, et

b) le ministre du Revenu national ou le ministre des Finances, selon le cas, soit tenu de verser à la personne faisant l'objet de la cotisation le montant net qui lui est payable, ainsi que l'intérêt sur ce montant au taux prescrit aux termes de la Loi à compter de la date de l'établissement de la cotisation jusqu'à la date du paiement.

19. Que, lorsque le ministre du Revenu national ou le ministre des Finances, selon le cas, refuse une demande de remboursement, ou lorsqu'une personne fait l'objet d'une cotisation à l'égard de taxes ou autres sommes payables en vertu de la Loi, le requérant ou la personne faisant l'objet de la cotisation ait le droit, dans un délai de quatre-vingt-dix jours suivant la date d'envoi de l'avis de cotisation ou de la détermination du Ministre concernant la demande de remboursement, de signifier au Ministre concerné un avis d'opposition ayant trait à la cotisation ou à la détermination.

20. Que, sur réception d'un avis d'opposition, le ministre du Revenu national ou le ministre des Finances, selon le cas, soit tenu de réexaminer la détermination ou la cotisation faisant l'objet de l'avis d'opposition et de ratifier, de modifier ou d'annuler la détermination ou la

determination or assessment or reassess, as the case may require.

21. That any person who has filed a notice of objection with the Minister of National Revenue be permitted to appeal to the Tariff Board or Federal Court—Trial Division

- (a) within ninety days after notice of the Minister's decision is sent to him,
- (b) where the Minister consents to waiving reconsideration of any determination or assessment to which the notice relates, or
- (c) at any time, where the Minister has failed to send notice of his decision to him within one hundred and eighty days after receiving the notice of objection, except that where such notice of the Minister's decision is subsequently sent to the person objecting, such appeal may be commenced only within ninety days after such notice is sent.

22. That where a person has filed a notice of objection respecting an assessment with the Minister of National Revenue and the Minister thereafter reassesses that person in respect of any matter covered by the original assessment, that person be permitted, without filing a new notice of objection,

- (a) to appeal the reassessment to the Tariff Board or Federal Court—Trial Division within ninety days after notice of the reassessment is sent to him, or
- (b) to amend any previous appeal that has been instituted with respect to the original assessment.

23. That any party to an appeal before the Tariff Board be permitted to appeal the decision of the Board to the Federal Court—Trial Division within one hundred and twenty days after the decision is sent to him.

24. That any person who has filed a notice of objection with the Minister of Finance in respect of Part I of the Act be permitted to appeal to the Federal Court—Trial Division within the times limited by and in the circumstances described in any enactment founded on paragraph 21 or 22 of this motion.

25. That any purchaser of conditionally relieved goods who has paid an amount in respect of tax under the Act to the vendor of the goods be permitted, in respect of the purchase of the goods,

cotisation ou d'établir une nouvelle cotisation, selon le cas.

21. Que toute personne qui a signifié un avis d'opposition au ministre du Revenu national puisse en appeler à la Commission du tarif ou à la Division de première instance de la Cour fédérale

- a) dans un délai de quatre-vingt-dix jours suivant la date d'envoi de la décision du Ministre,
- b) si le Ministre consent à renoncer à un nouvel examen de toute détermination ou cotisation faisant l'objet de l'avis, ou
- c) en tout temps, si le Ministre a omis de lui envoyer un avis de sa décision dans un délai de cent quatre-vingts jours suivant la date de réception de l'avis d'opposition, sauf que si un tel avis de la décision du Ministre est subséquemment envoyé à l'opposant, l'appel ne peut être commencé que dans un délai de quatre-vingt-dix jours suivant la date d'envoi de l'avis.

22. Que, lorsqu'une personne a signifié au ministre du Revenu national un avis d'opposition concernant une cotisation et que le Ministre établit une nouvelle cotisation par la suite relativement à toute matière faisant l'objet de la cotisation initiale, cette personne puisse, sans signifier un nouvel avis d'opposition,

- a) en appeler de la nouvelle cotisation à la Commission du tarif ou à la Division de première instance de la Cour fédérale dans un délai de quatre-vingt-dix jours suivant la date d'envoi de la nouvelle cotisation, ou
- b) modifier tout appel précédemment institué à l'égard de la cotisation initiale.

23. Que toute partie à un appel entendu par la Commission du tarif puisse en appeler de la décision de la Commission à la Division de première instance de la Cour fédérale dans un délai de cent vingt jours suivant la date d'envoi de la décision.

24. Que toute personne qui a signifié un avis d'opposition au ministre des Finances relativement à la Partie I de la Loi puisse en appeler à la Division de première instance de la Cour fédérale dans les délais prévus et dans les circonstances décrites dans tout texte législatif fondé sur l'article 21 ou 22 de la présente motion.

25. Que tout acheteur de marchandises exemptées sous condition, qui a versé au vendeur des marchandises un montant à l'égard de la taxe en vertu de la Loi, puisse, relativement à l'achat des marchandises,

- (a) to object to a decision of the Minister of National Revenue rejecting a refund application, or to an assessment, in respect of the purchase by filing a notice of objection with the Minister within 30 days after the time otherwise limited to the vendor for doing so, or
 - (b) to appeal, within 30 days after the time otherwise limited to the vendor for doing so, to the Tariff Board or Federal Court—Trial Division from a decision of the Minister of National Revenue respecting a notice of objection filed in respect of the purchase by the vendor of the goods,
- and to receive any resulting refund or payment in respect of those goods, if
- (c) the vendor of the goods failed to file a notice of objection with the Minister or to appeal from the decision of the Minister respecting the notice of objection, as the case may be, within the time limited for doing so, or
 - (d) the vendor of the goods unconditionally assigned to the purchaser his rights to so object or appeal, as the case may be, and to receive any refund or payment, and the Minister has been notified of the assignment within the time limited to the purchaser for instituting the proceedings to which the assignment relates.

26. That the Tariff Board be empowered to make an order extending the time limited for filing a notice of objection in respect of the Act, other than Part I, or for appealing to the Board and that the Federal Court—Trial Division be empowered to make an order extending the time limited for filing a notice of objection in respect of Part I of the Act or for appealing to the Court in respect of any Part of the Act.

27. That every appeal before the Federal Court—Trial Division be deemed to be an action to which the Federal Court Act and the Federal Court Rules apply, subject to such exceptions as are consistent with any enactment founded on this motion.

28. That the Tariff Board and Federal Court—Trial Division be empowered

- (a) to permit any person to intervene in an appeal as a party thereto if he establishes that he has a substantial interest in the subject matter of the appeal,
- (b) to permit any other person to render assistance to it by way of argument,

- a) s'opposer à une décision du ministre du Revenu national de refuser une demande de remboursement, ou à une cotisation, relativement à l'achat en signifiant un avis d'opposition au Ministre dans les 30 jours suivant le délai par ailleurs prévu dont dispose le vendeur pour le faire, ou
 - b) en appeler, dans les 30 jours suivant le délai par ailleurs prévu dont dispose le vendeur pour le faire, à la Commission du tarif ou à la Division de première instance de la Cour fédérale d'une décision du ministre du Revenu national concernant un avis d'opposition que le vendeur des marchandises a signifié relativement à l'achat,
- et recevoir tout remboursement ou paiement qui en résulte à l'égard de ces marchandises, si
- c) le vendeur desdites marchandises a omis de signifier un avis d'opposition au Ministre ou d'en appeler de la décision du Ministre concernant l'avis d'opposition, selon le cas, dans le délai prévu pour le faire, ou
 - d) le vendeur desdites marchandises a cédé sans condition à l'acheteur ses droits de s'opposer ou d'en appeler, selon le cas, et de recevoir tout remboursement ou paiement, et que le Ministre a été notifié de la cession dans le délai prévu dont dispose l'acheteur pour tenter les procédures auxquelles se rapporte la cession.

26. Que la Commission du tarif ait le pouvoir de rendre une ordonnance prolongeant le délai prévu pour signifier un avis d'opposition en vertu de la Loi, autre que la Partie I, ou pour en appeler à la Commission et que la Division de première instance de la Cour fédérale ait le pouvoir de rendre une ordonnance prolongeant le délai prévu pour signifier un avis d'opposition relativement à la Partie I de la Loi ou pour en appeler à la Cour relativement à toute Partie de la Loi.

27. Que chaque appel entendu par la Division de première instance de la Cour fédérale soit réputé être une action à laquelle s'appliquent la Loi sur la Cour fédérale et les règles de la Cour fédérale, sauf lorsqu'il est prévu autrement dans tout texte législatif fondé sur la présente motion.

28. Que la Commission du tarif et la Division de première instance de la Cour fédérale aient le pouvoir

- a) de permettre à toute personne d'intervenir dans un appel entendu par elles et d'agir à titre de partie à l'appel si cette personne établit qu'elle a un intérêt important dans la cause portée en appel,
- b) de permettre à toute autre personne de les aider par voie de plaider,

(c) to hear an appeal in camera if it is satisfied that the circumstances of the case justify in camera proceedings, and

(d) to dispose of any appeal by dismissing it, by varying or vacating the assessment or determination or by referring the assessment or determination back to the Minister of National Revenue or the Minister of Finance, as the case may require, for reconsideration.

29. That on the disposition of an appeal, the Federal Court—Trial Division be empowered to order, in its discretion, the payment of costs by any party, and that the Minister of National Revenue be required, where he brings an appeal from a decision of the Tariff Board and the amount of the tax, refund or payment in dispute does not exceed ten thousand dollars, to pay all reasonable and proper costs of the respondent in respect of the appeal.

30. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance be permitted to refer any question relating to the Act to the Federal Court—Trial Division for hearing and determination.

31. That where it is established as a result of a decision on an appeal that an amount is payable to the person who instituted the appeal or that an amount assessed for which security has been given is not payable, the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance.

(a) be required, where that person so agrees and notwithstanding an appeal by the Minister from that decision, to pay the amount payable or to discharge any security so given in respect of the amount assessed that is not payable, and

(b) be permitted, where any other person who has filed a notice of objection or instituted an appeal in respect of the same or a similar issue so agrees, to make a payment to or discharge any security given by that other person.

32. That where a decision referred to in any enactment founded on paragraph 31 of this motion is reversed on the final disposition of that appeal, the monthly penalty of one-half of one per cent for default in payment of any tax or other sums payable under the Act not apply to any amount payable as a result of that final disposition

c) d'entendre un appel à huis clos si elles sont convaincues que les circonstances de la cause justifient des procédures à huis clos, et

d) de disposer de tout appel en le rejetant, en modifiant ou annulant la cotisation ou la détermination ou en renvoyant la cotisation ou la détermination au ministre du Revenu national ou au ministre des Finances, selon le cas, en vue d'un nouvel examen.

29. Que, lorsqu'elle statue sur un appel, la Division de première instance de la Cour fédérale ait le pouvoir d'ordonner, à sa discrétion, le paiement des dépenses par toute partie, et d'ordonner que le ministre du Revenu national soit tenu, lorsqu'un appel est interjeté par lui d'une décision de la Commission du tarif et que le montant de la taxe, du remboursement ou du paiement en litige n'excède pas dix mille dollars, de payer tous les frais raisonnables et justifiés du défendeur afférents à l'appel.

30. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances puisse renvoyer toute question relative à la Loi à la Division de première instance de la Cour fédérale pour qu'elle tienne des audiences et se prononce sur la question.

31. Que, lorsqu'une décision rendue sur un appel établit qu'un montant est payable à la personne qui a institué l'appel ou qu'un montant fixé dans une cotisation et pour lequel une garantie a été fournie n'est pas payable, le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances

a) soit tenu, lorsque cette personne y consent et nonobstant un appel interjeté par le Ministre sur cette décision, de verser le montant payable ou de remettre toute garantie ainsi donnée à l'égard du montant fixé dans la cotisation qui n'est pas payable, et

b) soit autorisé, lorsque toute autre personne qui a signifié un avis d'opposition ou institué un appel relativement à la même question ou à une question semblable y consent, à verser un paiement à cette autre personne ou à lui remettre toute garantie donnée par elle.

32. Que, lorsqu'une décision visée dans tout texte législatif fondé sur l'article 31 de la présente motion est renversée lors de la disposition finale de cet appel, l'amende mensuelle de un demi pour cent pour défaut de paiement de toute taxe ou autres sommes payables en vertu de la Loi ne s'applique pas à tout montant payable par suite de cette disposition finale à compter de la date

from the time of the original decision to the time the appeal is finally disposed of.

33. That any taxes or other sums payable under any Part of the Act be deemed to be debts due to Her Majesty in right of Canada and be recoverable as such by action commended in the Federal Court or any other court of competent jurisdiction within the time limited by any enactment founded on this motion for making an assessment or by any other means provided for in the Act.

34. That no proceedings be taken under the Act for the collection of taxes or other sums payable unless a judgement has been obtained or an assessment has been issued, and that where an assessment has been issued, no such proceedings be taken

(a) during the ninety day period limited for filing a notice of objection to the assessment,

(b) to the extent that such amounts are the subject of an objection, until the decision of the Minister of National Revenue or Minister of Finance, as the case may require, respecting the objection has been sent to the person assessed and the ninety day period limited for appealing to the Tariff Board or Federal Court—Trial Division has expired,

(c) to the extent that such amounts are the subject of an appeal before the Tariff Board or Federal Court—Trial Division, until the Board or Court renders its decision on the appeal, or

(d) to the extent that such amounts are the subject of a reference to the Federal Court—Trial Division and the person assessed will be bound by the decision of the Court, until the Court renders its decision on the reference,

except that where such amounts are the subject of an objection or appeal and the person assessed has agreed with the Minister to defer further proceedings in respect of the assessment pending the outcome of another appeal on the same issue, such collection proceedings may be taken, once the decision on that other appeal has been rendered, to recover any amounts assessed in a manner consistent with the decision on that other appeal.

35. That the Minister of National Revenue or, in the case of Part I of the Act, the Minister of Finance be permitted to take collection proceedings forthwith under

de la décision initiale jusqu'à la date de la disposition finale de l'appel.

33. Que les taxes ou autres sommes payables en vertu de toute Partie de la Loi soient réputées être des dettes dues à Sa Majesté du chef du Canada et être recouvrables à ce titre au moyen d'une action instituée dans la Cour fédérale ou toute autre cour de juridiction compétente dans le délai prévu par tout texte législatif fondé sur la présente motion pour établir une cotisation ou par tout autre moyen prévu dans la Loi.

34. Que nulle procédure ne soit entamée en vertu de la Loi pour la perception de taxes ou autres sommes payables, sauf si un jugement a été obtenu ou une cotisation a été émise, et que lorsqu'une cotisation a été émise, nulle semblable procédure ne soit entamée

a) pendant la période de quatre-vingt-dix jours prévue pour signifier un avis d'opposition à la cotisation,

b) dans la mesure où de tels montants font l'objet d'une opposition, avant que la décision du ministre du Revenu national ou du ministre des Finances, selon le cas, concernant l'avis d'opposition ait été envoyé à la personne faisant l'objet de la cotisation et que la période de quatre-vingt-dix jours prévue pour en appeler à la Commission du tarif ou à la Division de première instance de la Cour fédérale soit expirée,

c) dans la mesure où de tels montants font l'objet d'un appel entendu par la Commission du tarif ou la Division de première instance de la Cour fédérale, avant que la Commission ou la Cour ne rende sa décision sur l'appel, ou

d) dans la mesure où de tels montants font l'objet d'un renvoi à la Division de première instance de la Cour fédérale et que la personne faisant l'objet de la cotisation sera liée par la décision de la Cour, avant que la Cour ne rende sa décision sur le renvoi, sauf que lorsque de tels montants font l'objet d'une opposition ou d'un appel et que la personne faisant l'objet de la cotisation est d'accord avec le Ministre pour reporter les procédures à l'égard de la cotisation en attendant le résultat d'un autre appel sur la même question, des procédures de perception semblables peuvent être entamées, lorsque la décision sur cet autre appel a été rendue, pour recouvrer tous les montants établis d'une manière conforme avec la décision sur cet autre appel.

35. Que le ministre du Revenu national ou, dans le cas de la Partie I de la Loi, le ministre des Finances soit

the Act for the recovery of amounts assessed where it may reasonably be considered that collection thereof would be jeopardized by any delay and a direction to pay forthwith has been sent to the person assessed, and that the question of whether the direction was justified in the circumstances be subject to judicial review.

36. That the liability to Her Majesty of an assignee of a book debt or negotiable instrument of title to a book debt for failure to comply with a demand by the Minister for payment under the collection provisions of the Act be limited to the lesser of the amount received by the assignee on account of the debt assigned after the demand was made and the amount of tax or other sums payable under the Act with respect to the transaction giving rise to debt so assigned, together with penalty and interest thereon from the first day of the first month following the month in which the failure to comply with the demand occurred.

37. That the liability to Her Majesty of a person who is indebted to a tax debtor for failure to comply with a demand by the Minister for payment under the collection provisions of the Act be limited to the lesser of the amount of the debt of that person to the tax debtor and the amount of the taxes and other sums in respect of which the demand was made which remain unpaid by the tax debtor, together with penalty and interest thereon from the first day of the first month following the month in which the failure to comply with the demand occurred.

38. That the Tariff Board and Federal Court—Trial Division be empowered, on application by the Minister of National Revenue or, in the case of Part I of the Act, by the Minister of Finance, to impose a penalty not exceeding ten per cent of the amount in controversy if it determines that there were no reasonable grounds for the appeal and that one of the main reasons for instituting the appeal was to defer the payment of tax or other sums payable under the Act.

39. That subsection 54(1) of the Act dealing with the ownership of penalties imposed under the Act be extended to apply to fines imposed under the Act.

40. That with respect to section 57 of the Act,

autorisé à entamer des procédures de perception immédiatement en vertu de la Loi en vue du recouvrement des montants établis lorsqu'il peut être raisonnablement envisagé que la perception de ces montants serait compromise par tout délai et qu'un ordre de paiement immédiat a été envoyé à la personne faisant l'objet d'une cotisation, et que la question de savoir si l'ordre était justifié dans les circonstances fasse l'objet d'un contrôle judiciaire.

36. Que la responsabilité envers Sa Majesté d'un cessionnaire d'une dette active ou d'un titre négociable de propriété à une dette active pour défaut de se conformer à une sommation du Ministre en vue du paiement aux termes des dispositions de la Loi relatives à la perception soit limitée au moins élevé du montant reçu par le cessionnaire à compte de la dette cédée après la signification de la sommation ou du montant de la taxe ou autres sommes payables en vertu de la Loi à l'égard de l'opération donnant lieu à la dette cédée, ainsi que l'amende et les intérêts sur ce montant, à compter du premier jour du premier mois suivant celui de la survenance du défaut de se conformer à la sommation.

37. Que la responsabilité envers Sa Majesté d'une personne qui est endettée envers un débiteur de la taxe pour défaut de se conformer à une sommation du Ministre en vue du paiement aux termes des dispositions de la Loi soit limitée au moins élevé du montant de la dette de cette personne envers le débiteur de la taxe ou du montant des taxes et autres sommes pour lequel la sommation a été signifiée et qui demeure impayé par le débiteur de la taxe, ainsi que l'amende et les intérêts sur ce montant, à compter du premier jour du premier mois suivant celui de la survenance du défaut de se conformer à la sommation.

38. Que la Commission du tarif et la Division de première instance de la Cour fédérale aient le pouvoir d'imposer une amende ne dépassant pas dix pour cent du montant en litige si elle détermine qu'il n'existait aucun motif raisonnable pour interjeter appel et que l'une des principales raisons pour instituer l'appel consistait à reporter le paiement de la taxe ou autres sommes payables en vertu de la Loi.

39. Que les dispositions du paragraphe 54(1) de la Loi portant sur la disposition des peines imposées en vertu de la Loi soient élargies pour s'appliquer aux amendes imposées en vertu de la Loi.

40. Que, en ce qui concerne l'article 57 de la Loi,

- (a) the power of authorized officials to seize, take away and retain any document in the course of an audit or inspection be removed,
- (b) a power to make copies of documents that are made available for inspection or that are produced under the Act be introduced,
- (c) the power to require information in relation to unnamed persons from third parties be subject to the prior approval of a judge, upon being satisfied that such information is for the purposes of verifying compliance with the Act, that there is reason to believe that one or more persons have failed or may fail to provide such information and that the information is not otherwise more readily available, and
- (d) any court presiding over proceedings for failure to comply with a requirement to provide information or to produce documents be authorized to order compliance with the requirement.

41. That persons who are required, pursuant to subsection 57(1) of the Act, to keep records and books of account and who have filed a notice of objection or are a party to an appeal under the Act be required to retain those records and books of account relating to the objection or appeal until the proceedings are finally disposed of.

42. That every reference to a “penalty” in the English version of subsection 57(7) of the Act be changed to refer to a “fine”.

43. That presumptions and rules be established respecting service and proof of documents, notices and records and that such other rules, procedures, conditions and provisions be established as are consistent with the intent of any enactment founded on this motion.

44. That the spent transitional provision in subsection 4(2.1) of the Act be repealed.

45. That insurance brokers and agents be required to report, in the annual return of information required under Part I of the Act regarding insurance placed with unauthorized insurers, the premiums payable with respect to such insurance.

46. That the rate of interest applicable to unpaid amounts under Part I of the Act be changed from six per cent per annum to the rate prescribed for other purposes of the Act.

- a) le pouvoir des fonctionnaires autorisés de saisir, transporter et garder tout document au cours d’une vérification ou d’une inspection soit supprimé,
- b) un pouvoir de faire des copies des documents qui sont rendus disponibles pour inspection ou qui sont produits en vertu de la Loi soit établi,
- c) le pouvoir de demander à des tierces parties des renseignements relativement à des personnes dont le nom n’est pas connu soit assujéti à l’approbation préalable d’un juge, lorsqu’il est convaincu que de tels renseignements serviront à vérifier l’observation de la Loi, qu’il y a raison de croire qu’une ou plusieurs personnes ont omis ou peuvent omettre de fournir lesdits renseignements et que ceux-ci ne sont pas par ailleurs plus facilement disponibles, et
- d) toute cour qui préside à des procédures pour omissions de répondre à une demande de fournir des renseignements ou de produire des documents soit autorisée à ordonner l’observation de la demande.

41. Que les personnes qui sont requises, aux termes du paragraphe 57(1) de la Loi, de tenir des registres et livres de comptes et qui ont produit un avis d’opposition ou sont parties à un appel en vertu de la Loi, soient tenues de conserver les registres et livres de comptes ayant trait à l’opposition ou à l’appel jusqu’à la décision finale sur les procédures.

42. Que chaque renvoi à «penalty» dans la version anglaise du paragraphe 57(7) de la Loi soit modifié par un renvoi à «fine».

43. Que des présomptions et des règles soient établies concernant le service et la preuve des documents, avis et registres et que d’autres règles, procédures, conditions et dispositions soient établies qui sont conformes à l’esprit de tout texte législatif fondé sur la présente motion.

44. Que la disposition transitoire épuisée au paragraphe 4(2.1) de la Loi soit abrogée.

45. Que les courtiers et les agents d’assurance soient tenus de déclarer, dans le rapport annuel de renseignements requis en vertu de la Partie I de la Loi concernant l’assurance placée auprès d’assureurs non autorisés, les primes payables relativement à une telle assurance.

46. Que le taux d’intérêt applicable à des montants impayés en vertu de la Partie I de la Loi soit modifié pour passer de six pour cent par année au taux prescrit pour d’autres fins de la Loi.

47. That the Minister of Finance be authorized to delegate, by regulation, to the Superintendent of Insurance or such other officer or officer of such class as he may deem expedient, the exercise of the powers conferred on him by the Act in respect of Part I of the Act.

48. That refund applications made in respect of refund rights arising under the Act as it read from time to time before any enactment founded on this motion comes into force which have been approved or rejected, in whole or in part, before the day on which any enactment founded on this motion comes into force be dealt with under and in conformity with procedures prescribed in the Act as it read immediately before any enactment founded on this motion comes into force, and that every other refund application in respect of such rights, and any other such right to a refund, be dealt with under and in conformity with the procedures prescribed in the Act as amended by any enactment founded on this motion.

49. That authority be provided to commerce or continue, after the day on which any enactment founded on this motion comes into force, under section 52 of the Act as it read immediately before any enactment founded on this motion comes into force, proceedings for the recovery of taxes, interest, penalties or other sums which became payable before any enactment founded on this motion comes into force, except that the authority to commence such proceedings more than four years after the taxes, interest, penalties or other sums became payable be limited to those instances in which the person by whom the taxes, penalties, interest or other sums are payable has been notified in writing by the Minister, before the day on which any enactment founded on this motion comes into force, of those sums.

50. That any enactment founded on this motion come into force on the first day of the second month following Royal Assent to such enactment.

47. Que le ministre des Finances soit autorisé à déléguer, par règlement, au surintendant des Assurances ou à tel autre fonctionnaire ou fonctionnaire de la catégorie qu'il peut juger appropriée, l'exercice des pouvoirs que la Loi lui confère à l'égard de la Partie I de la Loi.

48. Que les demandes de remboursements présentées à l'égard des droits de remboursement découlant de la Loi comme elle était interprétée de temps à autre avant l'entrée en vigueur de tout texte législatif fondé sur la présente motion, qui ont été approuvées ou rejetées, en totalité ou en partie, avant la date de l'entrée en vigueur de tout texte législatif fondé sur la présente motion, soient traitées aux termes et en conformité des procédures prescrites dans la Loi comme elle était interprétée immédiatement avant l'entrée en vigueur de tout texte législatif fondé sur la présente motion, et que toute autre demande de remboursement à l'égard de tels droits de même que tout autre tel droit de remboursement soient traités aux termes et en conformité des procédures prescrites dans la Loi, telle qu'elle est modifiée par tout texte législatif fondé sur la présente motion.

49. Que le pouvoir soit prévu d'entamer ou de continuer, après la date de l'entrée en vigueur de tout texte législatif fondé sur la présente motion, en vertu de l'article 52 de la Loi comme il était interprété immédiatement avant l'entrée en vigueur de tout texte législatif fondé sur la présente motion, des procédures en vue de recouvrement de taxes, d'intérêts, d'amendes ou autres sommes qui étaient devenus payables avant l'entrée en vigueur de tout texte législatif fondé sur la présente motion, sauf que le pouvoir d'entamer de telles procédures au-delà de quatre ans après que les taxes, les intérêts, les amendes ou autres sommes sont devenus payables, soit limité aux cas où la personne par qui les taxes, les amendes, les intérêts ou autres sommes sont payables a été notifiée par écrit de ces sommes par le Ministre, avant la date de l'entrée en vigueur de tout texte législatif fondé sur la présente motion.

50. Que tout texte législatif fondé sur la présente motion entre en vigueur le premier jour du deuxième mois suivant la Sanction Royale d'un tel texte législatif.

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE ACT

That it is expedient to introduce a measure to amend the Excise Act and to provide among other things:

1. That Part V of the schedule to the Act relating to the indexing adjustments of excise duty rates be repealed.
2. That the excise duty on the spirits specified in subsection 1(1) of Part I of the schedule to the Act be imposed at the rate of 10.32 dollars on every litre of absolute ethyl alcohol distilled in Canada and so in proportion for any less quantity than one litre (1 L).
3. That the excise duties on beer be imposed at the following rates:
 - (a) on all beer or malt liquor containing more than 2.5 per cent absolute ethyl alcohol by volume, 18.58 dollars per hectolitre;
 - (b) on all beer or malt liquor containing more than 1.2 per cent absolute ethyl alcohol by volume but not more than 2.5 per cent absolute ethyl alcohol by volume, 9.288 dollars per hectolitre; and
 - (c) on all beer or malt liquor containing not more than 1.2 per cent absolute ethyl alcohol by volume, 1.720 dollars per hectolitre.
4. That the excise duties on tobacco, cigars and cigarettes be imposed at the following rates:
 - (a) on manufactured tobacco of all descriptions except cigarettes, per kilogram actual mass, 2.207 dollars;
 - (b) on cigarettes having a mass of not more than one thousand three hundred and sixty-one grams (1 361 g) per thousand, 9.547 dollars per thousand;
 - (c) on cigarettes having a mass of more than one thousand three hundred and sixty-one grams (1 361 g) per thousand, 11.27 dollars per thousand;
 - (d) on cigars, 5.260 dollars per thousand; and
 - (e) on Canadian raw leaf tobacco when sold for consumption, per kilogram actual mass, 57.40 cents.
5. That the constraints upon any person who makes or brews beer for the use of himself and his family members who reside with him be relaxed by repealing the requirement to obtain a letter of consent and allowing a person to brew beer without payment of excise duty where such beer is brewed for non-commercial use and

AVIS DE MOTION DES VOIES ET MOYENS MODIFIANT LA LOI SUR L'ACCISE

Qu'il y a lieu de présenter un projet de loi afin de modifier la Loi sur l'accise et de prévoir entre autres:

1. Que la Partie V de l'annexe de la Loi relative aux rajustements d'indexation des taux de droit d'accise soit abrogée.
2. Que les droits d'accise sur l'eau-de-vie qui sont spécifiés au paragraphe 1(1) de la Partie I de l'annexe de la Loi soient imposés au taux de 10,32 dollars sur chaque litre d'alcool éthylique absolu distillé au Canada, et ainsi proportionnellement pour toute quantité moindre qu'un litre (1 L).
3. Que les droits d'accise sur la bière soient imposés aux taux suivants:
 - a) sur la bière ou la liqueur de malt contenant plus de 2,5 pour cent d'alcool éthylique absolu par volume, 18,58 dollars l'hectolitre;
 - b) sur la bière ou la liqueur de malt contenant plus de 1,2 pour cent d'alcool éthylique absolu par volume mais pas plus de 2,5 pour cent d'alcool éthylique absolu par volume, 9,288 dollars l'hectolitre; et
 - c) sur la bière ou la liqueur de malt ne contenant pas plus de 1,2 pour cent d'alcool éthylique absolu par volume, 1,720 dollars l'hectolitre.
4. Que les droits d'accise sur le tabac, les cigares et les cigarettes soient imposés aux taux suivants:
 - a) sur le tabac fabriqué de toutes catégories, excepté les cigarettes, 2,207 dollars le kilogramme, masse réelle;
 - b) sur les cigarettes ayant une masse d'au plus mille trois cent soixante et un grammes (1 361 g) le millier, 9,547 dollars le millier;
 - c) sur les cigarettes ayant une masse de plus de mille trois cent soixante et un grammes (1 361 g) le millier, 11,27 dollars le millier;
 - d) sur les cigares, 5,260 dollars le millier; et
 - e) sur le tabac canadien en feuilles lorsqu'il est vendu pour la consommation, 57,40 cents le kilogramme, masse réelle.
5. Que les restrictions imposées à toute personne qui fabrique ou brasse de la bière pour son usage personnel et celui des membres de sa famille qui demeurent avec elle soient relâchées en abrogeant l'exigence d'obtenir une lettre d'approbation et en permettant à une personne de brasser de la bière sans avoir à payer de droit

is solely for personal or family consumption or to be given away without charge and not for sale.

6. That utensils and apparatus for use by a person in brewing beer for non-commercial use and solely for the use of himself and his family or to be given away without charge be exempt from the provisions of the Act in respect of the possession of brewing apparatus by unlicensed persons.

7. That every person who makes or brews beer for non-commercial use and solely for the use of himself and his family or to be given away without charge and who sells any such beer or puts any such beer to a commercial use be guilty of an indictable offence and liable to the penalties provided in subsection 177(1) of the Act for the brewing of beer without a licence.

8. That the authority in the Act to make regulations regarding the destruction of beer and the refunding of all or part of any excise duty paid on destroyed beer be amended to delete the requirement for destruction to occur in a brewery and to require that any refund granted be paid to the brewer.

9. That the authority in the Act to make regulations regarding the re-working of tobacco and cigars and the refunding of all or part of any excise duty paid on re-worked products be amended to include the destruction of such products and to require that any refund be paid to the manufacturer of the products.

10. That the requirement to make a determination of a quantity or volume of alcohol, spirits, or absolute ethyl alcohol in a manner prescribed by departmental regulations using instruments specified in the regulations, be amended to include any manner, instruments or tanks approved by the Minister of National Revenue.

11. That the Minister of National Revenue be authorized to approve the manner of determining a quantity or volume of alcohol, spirits or absolute ethyl alcohol and the instruments or tanks to be used in such determination.

12. That subsection 56(2) of the Act be replaced with a provision whereby goods subject to excise duty may be

d'accise lorsque ladite bière est brassée pour usage non commercial et uniquement pour consommation personnelle ou familiale, ou pour être donnée gratuitement, et non pour la vente.

6. Que les ustensiles et appareils devant être utilisés par une personne dans le brassage de la bière pour usage non commercial et uniquement pour son usage personnel et celui de sa famille ou pour être donnée gratuitement soient soustraits aux dispositions de la Loi relatives à la possession d'appareils de brassage par des personnes qui ne détiennent pas une licence.

7. Que toute personne qui fabrique ou brasse de la bière pour usage non commercial et uniquement pour son usage personnel et celui de sa famille ou pour être donnée gratuitement et qui vend cette bière ou l'emploie à un usage commercial soit coupable d'un acte criminel et passible des amendes prévues au paragraphe 177(1) de la Loi concernant le brassage de la bière sans licence.

8. Que l'autorisation dans la Loi d'établir des règlements concernant la destruction de la bière et le remboursement de tout ou partie des droits d'accise payés sur la bière détruite soit modifiée pour radier l'exigence que survienne la destruction dans une brasserie et pour exiger que tout remboursement accordé soit versé au brasseur.

9. Que l'autorisation dans la Loi d'établir des règlements concernant les tabacs et cigares façonnés de nouveau et le remboursement de tout ou partie des droits d'accise payés sur lesdits produits soit modifiée pour comprendre la destruction de ces produits et pour exiger que tout remboursement soit versé au fabricant de tels produits.

10. Que l'exigence d'effectuer la détermination d'une quantité ou d'un volume d'alcool, d'eau-de-vie, ou d'alcool éthylique absolu d'une manière prescrite par des règlements ministériels en utilisant des instruments spécifiés dans les règlements, soit modifiée pour comprendre toute manière, tout instrument ou réservoir approuvé par le ministre du Revenu national.

11. Que le ministre du Revenu national soit autorisé à approuver la manière de déterminer une quantité ou un volume d'alcool, d'eau-de-vie ou d'alcool éthylique absolu ainsi que les instruments ou réservoirs qui doivent être utilisés pour une telle détermination.

12. Que le paragraphe 56(2) de la Loi soit remplacé par une disposition selon laquelle les marchandises assujetties à des droits d'accise peuvent être transportées sans

removed without payment of duty from a bonding warehouse established under the Act

(a) to a bonded warehouse licensed as such under the Customs Act when such goods are

(i) designated for delivery as ships' stores,

(ii) for sale to accredited representatives in Canada of any other country, or

(iii) for export, or

(b) to a duty free shop licensed as such under the Customs Act when such goods are for sale to persons who are about to leave Canada,

if they are delivered and sold in accordance with departmental regulations.

13. That any enactment founded on paragraphs 1 to 3, 5, 6 and 12 come into force on May 24, 1985.

14. That any enactment founded on paragraph 4 of this motion come into force on May 23, 1985 at 3:30 o'clock in the afternoon eastern standard time.

acquittement des droits d'un entrepôt établi sous le régime de la Loi

a) à un entrepôt de douane muni d'une licence comme tel en vertu de la Loi sur les douanes lorsque lesdites marchandises sont

(i) désignées pour livraison à titre d'approvisionnement de navire,

(ii) pour la vente à des représentants d'un autre pays accrédités au Canada, ou

(iii) pour exportation, ou

b) à un magasin de vente en franchise muni d'une licence comme tel en vertu de la Loi sur les douanes lorsque lesdites marchandises sont offertes en vente à des personnes qui sont sur le point de quitter le Canada,

si elles sont livrées et vendues conformément aux règlements ministériels.

13. Que tout texte législatif fondé sur les articles 1 à 3, 5, 6 et 12 entre en vigueur le 24 mai 1985.

14. Que tout texte législatif fondé sur l'article 4 de la présente motion entre en vigueur le 23 mai 1985 à 15 h 30, heure normale de l'Est.



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House of Commons
Chambre des communes
CANADA

NOTICES OF MOTIONS AVIS DE MOTIONS

WAYS AND MEANS VOIES ET MOYENS

Friday, November 1, 1985
Le vendredi 1^{er} novembre 1985

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE PETROLEUM AND GAS REVENUE TAX ACT

That it is expedient to amend the Petroleum and Gas Revenue Tax Act to provide among other things:

Incremental Oil Revenue Tax

(1) That the special tax on incremental oil revenue be repealed with respect to oil production after 1984.

Production and Resource Royalties

(2) That production royalties and resource royalties received by a taxpayer (other than a non-resident person not carrying on an oil and gas business in Canada) computed by reference to the amount or value of production of petroleum or gas after 1985

- (a) not be subject to the withholding tax under Division II of the Act, and
- (b) be included in his production revenue under Division I of the Act.

Tax Rates — Conventional Production

(3) That the rate of tax payable under Division I of the Act in respect of petroleum and gas production revenue (other than revenue from the production of petroleum from a mine in a bituminous sands deposit) be:

- (a) 13.33% for revenue that may reasonably be attributed to production in 1986,
- (b) 10.67% for revenue that may reasonably be attributed to production in 1987,
- (c) 8% for revenue that may reasonably be attributed to production in 1988, and
- (d) nil for revenue that may reasonably be attributed to production after 1988.

Tax Rates — Tar Sands Production

(4) That the rate of tax payable under Division I of the Act in respect of petroleum and gas production revenue derived from the production of petroleum from a mine in a bituminous sands deposit be:

AVIS DE MOTION DES VOIES ET MOYENS VISANT À MODIFIER LA LOI DE L'IMPÔT SUR LES REVENUS PÉTROLIERS

Qu'il y a lieu de modifier la *Loi de l'impôt sur les revenus pétroliers* et de prévoir entre autres choses:

Impôt sur les recettes pétrolières supplémentaires

(1) Que l'impôt spécial sur les recettes pétrolières supplémentaires soit abrogé en ce qui concerne la production de pétrole postérieure à 1984.

Redevances de production et redevances pétrolières

(2) Que les redevances de production et les redevances pétrolières reçues par un contribuable (à l'exception d'une personne non résidente qui n'exploite pas d'entreprise pétrolière et gazière au Canada), calculées en fonction de la quantité ou valeur de la production de pétrole ou de gaz après 1985,

- a) ne soient pas assujetties à la retenue d'impôt prévue à la section II de la loi, et
- b) soient incluses dans le revenu de production du contribuable en vertu de la section I de la loi.

Taux d'imposition—Production provenant de gisements classiques

(3) Que l'impôt payable en vertu de la section I de la loi sur le revenu de production de pétrole et de gaz (à l'exception du revenu tiré de la production de pétrole extrait d'une mine dans un gisement de sables bitumineux) corresponde à:

- a) 13,33 % du revenu qu'il est raisonnable d'attribuer à la production de 1986;
- b) 10,67 % du revenu qu'il est raisonnable d'attribuer à la production de 1987;
- c) 8 % du revenu qu'il est raisonnable d'attribuer à la production de 1988;
- d) zéro pour le revenu qu'il est raisonnable d'attribuer à la production postérieure à 1988.

Taux d'imposition—Production provenant de sables bitumineux

(4) Que l'impôt payable, en vertu de la section I de la loi, sur le revenu de production de pétrole et de gaz, dérivé de la production de pétrole extrait d'une mine dans un gisement de sables bitumineux, corresponde à:

- (a) 12% for revenue that may reasonably be attributed to production in 1986,
- (b) 8% for revenue that may reasonably be attributed to production in 1987,
- (c) 4% for revenue that may reasonably be attributed to production in 1988, and
- (d) nil for revenue that may reasonably be attributed to production after 1988.

Withholding Tax Rates — Conventional Production

(5) That the rate of tax payable by a non-resident (other than a non-resident person carrying on an oil and gas business in Canada) under Division II of the Act in respect of resource royalties (other than royalties from the production of petroleum from a mine in a bituminous sands deposit) computed by reference to the amount or value of production be:

- (a) 13.33% for royalties in respect of production in 1986,
- (b) 10.67% for royalties in respect of production in 1987,
- (c) 8% for royalties in respect of production in 1988, and
- (d) nil for royalties in respect of production after 1988.

Withholding Tax Rates — Tar Sands Production

(6) That the rate of tax payable by a non-resident (other than a non-resident person carrying on an oil and gas business in Canada) under Division II of the Act in respect of resource royalties computed by reference to the amount or value of production of petroleum from a mine in a bituminous sands deposit be:

- (a) 12% for royalties in respect of production in 1986,
- (b) 8% for royalties in respect of production in 1987,
- (c) 4% for royalties in respect of production in 1988, and
- (d) nil for royalties in respect of production after 1988.

- a) 12 % du revenu qu'il est raisonnable d'attribuer à la production de 1986;
- b) 8 % du revenu qu'il est raisonnable d'attribuer à la production de 1987;
- c) 4 % du revenu qu'il est raisonnable d'attribuer à la production de 1988;
- d) zéro pour le revenu qu'il est raisonnable d'attribuer à la production postérieure à 1988.

Taux de retenue d'impôt—Production provenant de gisements classiques

(5) Que l'impôt payable par un non-résident (à l'exception d'une personne non résidente qui exploite une entreprise pétrolière et gazière au Canada) en vertu de la section II de la loi, sur les redevances pétrolières (à l'exception des redevances provenant de la production de pétrole extrait d'une mine dans un gisement de sables bitumineux), calculées en fonction de la quantité ou valeur de la production, corresponde à:

- a) 13,33 % des redevances relatives à la production de 1986;
- b) 10,67 % des redevances relatives à la production de 1987;
- c) 8 % des redevances relatives à la production de 1988;
- d) zéro pour les redevances relatives à la production postérieure à 1988.

Taux de retenue d'impôt—Production provenant de sables bitumineux

(6) Que l'impôt payable par un non-résident (à l'exception d'une personne non résidente qui exploite une entreprise pétrolière et gazière au Canada) en vertu de la section II de la loi, sur les redevances pétrolières, calculées en fonction de la quantité ou valeur de la production de pétrole extrait d'une mine dans un gisement de sables bitumineux, corresponde à:

- a) 12 % des redevances relatives à la production de 1986;
- b) 8 % des redevances relatives à la production de 1987;
- c) 4 % des redevances relatives à la production de 1988;
- d) zéro pour les redevances relatives à la production postérieure à 1988.

Deduction for Individuals

(7) That for the 1986 and subsequent taxation years, an individual other than a trust be entitled to a deduction of \$10,000 in computing his production revenue under Division I of the Act.

PGRT Offset

(8) That for the 1985 and subsequent taxation years a corporation be allowed to deduct from its petroleum and gas revenue tax otherwise payable for a taxation year an amount equal to 30% of the increase in its cumulative offset account under the Income Tax Act for the year.

Exempt Production

(9) That an exemption be provided for prescribed petroleum and gas production revenue, including production royalties and resource royalties, attributable to production after March 31, 1985.

Payments in Respect Undelivered Petroleum or Gas

(10) That where an amount is included in computing a taxpayer's production revenue in respect of petroleum or gas not delivered at the end of a taxation year, he be permitted a deduction in the 1982 and subsequent taxation years where he has paid a reasonable amount to another person in consideration for the other person undertaking to take over his obligation to deliver the petroleum or gas provided the amount so paid was included in the other person's revenue.

Déduction pour les particuliers

(7) Que, pour les années d'imposition 1986 et suivantes, un particulier, à l'exception d'une fiducie, ait droit à une déduction de 10 000 \$ dans le calcul de son revenu de production en vertu de la section I de la loi.

Compte compensatoire cumulatif—revenus pétroliers

(8) Que, pour les années d'imposition 1985 et suivantes, une corporation ait le droit de déduire de son impôt sur les revenus pétroliers et gaziers payable par ailleurs pour une année d'imposition, un montant égal à 30 % de l'augmentation de son compte compensatoire cumulatif en vertu de la *Loi de l'impôt sur le revenu* pour l'année.

Production exonérée

(9) Qu'une exemption soit prévue pour le revenu de production prescrit de pétrole et de gaz, y compris les redevances de production et les redevances pétrolières, attribuable à la production postérieure au 31 mars 1985.

Paiements au titre de pétrole ou de gaz non livré

(10) Que, lorsqu'un montant est inclus dans le calcul du revenu de production d'un contribuable au titre du pétrole ou du gaz non livré à la fin d'une année d'imposition, le contribuable ait droit à une déduction pour les années d'imposition 1982 et suivantes dans le cas où il paie un montant raisonnable à une autre personne pour que celle-ci endosse l'obligation du contribuable de livrer le pétrole ou le gaz, à condition que le montant ainsi payé soit inclus dans le revenu de cette autre personne.

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE INCOME TAX ACT

That it is expedient to amend the Income Tax Act and to provide among other things:

PGRT Offset

- That for the 1985 and subsequent taxation years,
- (a) a corporation be allowed to designate an amount for the year not exceeding the aggregate of
 - (i) the lesser of its prescribed Canadian oil and gas exploration expense incurred in the year and after March 31, 1985 and its cumulative Canadian exploration expense at the end of the year, and
 - (ii) where no deduction is claimed by it for the year with respect to its cumulative Canadian development expense, the lesser of 30% of its prescribed Canadian oil and gas development expense incurred in the year and after March 31, 1985 and 30% of such cumulative development expense at the end of the year determined as if no Canadian resource property were disposed of by it in the year, or
 - (iii) in any other case, the lesser of 30% of its prescribed Canadian oil and gas development expense incurred in the year and after March 31, 1985 and the amount by which 30% of its cumulative Canadian development expense at the end of the year exceeds the deduction claimed by it for the year in respect thereof,
 - (b) any amount so designated by a corporation for a taxation year be deducted from its cumulative Canadian exploration expense or cumulative Canadian development expense, as the case may be, and be added to its cumulative offset account for the year,
 - (c) rules be introduced to permit a corporation to deduct an amount not exceeding its cumulative offset account at the end of the year in computing its income for the year, and to require it to pay by monthly instalments a special tax of 30% of the amount so deducted, and
 - (d) rules be introduced to permit the flow-through of a corporation's cumulative offset account on a winding-up or amalgamation.

AVIS DE MOTION DES VOIES ET MOYENS VISANT À MODIFIER LA LOI DE L'IMPÔT SUR LE REVENU

Qu'il y a lieu de modifier la Loi de l'impôt sur le revenu et de prévoir entre autres choses:

Compte compensatoire cumulatif—revenus pétroliers

- Que, pour les années d'imposition 1985 et suivantes,
- a) une corporation puisse désigner un montant pour l'année qui ne dépasse pas le total
 - (i) du moindre de ses frais prescrits d'exploration pétrolière et gazière au Canada, engagés dans l'année, après le 31 mars 1985, ou de ses frais cumulatifs d'exploration au Canada à la fin de l'année, et
 - (ii) dans le cas où la corporation ne demande aucune déduction dans l'année à l'égard de ses frais cumulatifs d'aménagement au Canada, du moindre de 30 % de ses frais prescrits d'aménagement pétrolier et gazier au Canada engagés dans l'année, après le 31 mars 1985, ou de 30 % de ces frais cumulatifs d'aménagement à la fin de l'année calculés comme si la corporation n'avait disposé d'aucun avoir minier canadien dans l'année,
 - (iii) dans les autres cas, du moindre de 30 % de ses frais prescrits d'aménagement pétrolier et gazier au Canada engagés dans l'année, après le 31 mars 1985, ou de l'excédent de 30 % de ses frais cumulatifs d'aménagement au Canada à la fin de l'année sur la déduction qu'elle a demandée pour l'année à l'égard de ces frais;
 - b) le montant qu'une corporation a ainsi désigné pour une année d'imposition soit défalqué de ses frais cumulatifs d'exploration au Canada ou de ses frais cumulatifs d'aménagement au Canada, selon le cas, et ajouté à son compte compensatoire cumulatif pour l'année;
 - c) des règles soient prévues pour qu'une corporation puisse déduire, dans le calcul de son revenu pour l'année, un montant qui ne dépasse pas son compte compensatoire cumulatif à la fin de l'année, et soit tenue de payer, par acomptes provisionnels mensuels, un impôt spécial correspondant à 30 % du montant ainsi déduit; et
 - d) des règles soient prévues pour permettre le transfert du compte compensatoire cumulatif d'une corporation en cas de liquidation ou fusion de la corporation.



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House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION AVIS DE MOTION

WAYS AND MEANS VOIES ET MOYENS

Thursday, November 21, 1985
Le jeudi 21 novembre 1985

Notice of Ways and Means Motion to amend the Income Tax Act and related statutes and to amend the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Financial Administration Act and the Petroleum and Gas Revenue Tax Act

Avis de motion des voies et moyens visant à modifier la Loi de l'impôt sur le revenu et la législation connexe et à modifier le Régime de pensions du Canada, la Loi de 1971 sur l'assurance-chômage, la Loi sur l'administration financière et la Loi de l'impôt sur les revenus pétroliers

That it is expedient to amend the Income Tax Act and related statutes and to amend the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Financial Administration Act and the Petroleum and Gas Revenue Tax Act as follows:

Qu'il y a lieu de modifier comme suit la Loi de l'impôt sur le revenu et la législation connexe, ainsi que le Régime de pensions du Canada, la Loi de 1971 sur l'assurance-chômage, la Loi sur l'administration financière et la Loi de l'impôt sur les revenus pétroliers :

PART I

INCOME TAX ACT

R.S. 1952, c. 148; 1970-71-72, c. 63; 1972, c. 9; 1973-74, cc. 14, 29, 30, 44, 45, 49, 51; 1974-75-76, cc. 26, 50, 58, 71, 87, 88, 95; 1976-77, cc. 4, 10, 54; 1977-78, cc. 1, 4, 32, 41, 42; 1978-79, c. 5; 1979, c. 5; 1980-81-82-83, cc. 40, 47, 48, 68, 102, 104, 109, 140; 1984, cc. 1, 19, 31, 45; 1985, c. 45

1. (1) Subparagraph 3(b)(i) of the *Income Tax Act* is amended by adding the word "and" at the end of clause (A) thereof, by striking out the word "and" at the end of clause (B) thereof and by repealing clause (C) thereof.

(2) Section 3 of the said Act is further amended by adding the word "and" at the end of paragraph (c) thereof and by repealing all that portion thereof following paragraph (c) and substituting the following therefor:

"(d) determine the amount, if any, by which the amount determined under paragraph (c) exceeds the aggregate of

PARTIE I

LOI DE L'IMPÔT SUR LE REVENU

S.R. 1952, ch. 148; 1970-71-72, ch. 63; 1972, ch. 9; 1973-74, ch. 14, 29, 30, 44, 45, 49, 51; 1974-75-76, ch. 26, 50, 58, 71, 87, 88, 95; 1976-77, ch. 4, 10, 54; 1977-78, ch. 1, 4, 32, 41, 42; 1978-79, ch. 5; 1979, ch. 5; 1980-81-82-83, ch. 40, 47, 48, 68, 102, 104, 109, 140; 1984, ch. 1, 19, 31, 45; 1985, ch. 45

1. (1) Le sous-alinéa 3b)(i) de la *Loi de l'impôt sur le revenu* est modifié par adjonction du mot «et» à la fin de la division (A), 10 par suppression de ce mot à la fin de la division (B) et par abrogation de la division (C).

(2) Le passage de l'article 3 de la même loi qui suit l'alinéa c) est abrogé et remplacé par 15 ce qui suit :

«d) en calculant l'excédent éventuel de la fraction calculée selon l'alinéa c) sur le total des pertes subies par le contri-

all amounts each of which is his loss for the year from an office, employment, business or property or his allowable business investment loss for the year; and the amount, if any, determined under paragraph (d) is the taxpayer's income for the year for the purposes of this Part."

(3) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(4) Subsection (2) is applicable to the 1985 and subsequent taxation years except that for the 1985 taxation year that portion of section 3 of the said Act following paragraph (c) thereof shall be read as follows:

"(d) determine the amount, if any, by 15 which the amount determined under paragraph (c) exceeds the aggregate of

- (i) the aggregate of amounts each of which is his loss for the year from an office, employment, business or prop- 20 erty or his allowable business investment loss for the year, and
- (ii) the amount, if any, by which the amount determined under subclause (b)(i)(C)(II) exceeds the amount 25 determined under subclause (b)(i)(C)(I); and

(e) determine the amount, if any, by which the amount determined under paragraph (d) exceeds the least of 30

- (i) the amount, if any, by which the amount determined under subparagraph (b)(ii) exceeds the aggregate determined under subparagraph (b)(i), 35
- (ii) the amount, if any, that would be determined under subparagraph (i) if the taxpayer's taxable capital gains and allowable capital losses for the year did not include those arising on 40 the disposition by him of properties in the year and after May 22, 1985 and, for the purposes of this subparagraph, (A) a disposition of property made by the taxpayer after May 22, 1985 45 and before 1986 pursuant to an agreement in writing entered into before May 23, 1985 shall be

buable pour l'année qui résultent d'une charge, d'un emploi, d'une entreprise ou d'un bien et des pertes déductibles au titre d'un placement d'entreprise subies par le contribuable pour l'année; 5

l'excédent éventuel calculé selon l'alinéa d) représente le revenu du contribuable pour l'année pour l'application de la présente partie.»

(3) Le paragraphe (1) s'applique aux 10 années d'imposition 1986 et suivantes.

(4) Le paragraphe (2) s'applique aux années d'imposition 1985 et suivantes; toutefois, pour l'année d'imposition 1985, le passage de l'article 3 de la même loi qui suit 15 l'alinéa c) est remplacé par ce qui suit :

«d) en calculant l'excédent éventuel de la fraction calculée selon l'alinéa c) sur le total des montants suivants :

- (i) le total des pertes subies par le 20 contribuable pour l'année qui résultent d'une charge, d'un emploi, d'une entreprise ou d'un bien et des pertes déductibles au titre d'un placement d'entreprise subies par le contribuable 25 pour l'année,
- (ii) l'excédent éventuel du montant calculé selon la subdivision b)(i)(C)(II) sur le montant calculé selon la subdivision b)(i)(C)(I); 30

e) en calculant l'excédent éventuel de l'excédent calculé selon l'alinéa d) sur le moindre des montants suivants :

- (i) l'excédent éventuel du montant calculé selon le sous-alinéa b)(ii) sur 35 le total calculé selon le sous-alinéa b)(i),
- (ii) le montant éventuel qui serait calculé selon le sous-alinéa (i) si les gains en capital imposables et pertes 40 en capital déductibles du contribuable pour l'année ne comprenaient pas ceux résultant de dispositions de biens qu'il a effectuées dans l'année après le 22 mai 1985; pour l'applica- 45 tion du présent sous-alinéa :

(A) le contribuable qui a effectué une disposition de bien après le 22 mai 1985 et avant 1986, conformément à un accord écrit conclu avant 50

deemed to have been made by him in the year and prior to May 23, 1985,

(B) a capital gains dividend received by the taxpayer after May 22, 1985 shall be deemed to be a capital gain of the taxpayer from the disposition of property by him after May 22, 1985, and

(C) an amount designated by a trust under subsection 104(21) in respect of its net taxable capital gains in respect of the taxpayer in the return of the trust's income for a taxation year ending after May 22, 1985 shall be deemed to be a taxable capital gain of the taxpayer from the disposition of property by him after May 22, 1985, and

(iii) \$2,000, or if the taxpayer is a corporation, nil;

and the amount, if any, determined under paragraph (e) is the taxpayer's income for the year for the purposes of this Part."

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le 23 mai 1985, est réputé l'avoir effectuée dans l'année avant le 23 mai 1985,

(B) un dividende sur les gains en capital que le contribuable a reçu après le 22 mai 1985 est réputé être un gain en capital du contribuable sur la disposition de bien qu'il a effectuée après le 22 mai 1985, et

(C) un montant attribué au contribuable par une fiducie en vertu du paragraphe 104(21) au titre des gains en capital imposables nets de celle-ci dans la déclaration de revenu de la fiducie pour une année d'imposition se terminant après le 22 mai 1985 est réputé être un gain en capital imposable du contribuable sur la disposition de bien qu'il a effectuée après le 22 mai 1985;

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(iii) 2 000 \$ ou, si le contribuable est une corporation, zéro;

l'excédent éventuel calculé selon l'alinéa e) représente le revenu du contribuable pour l'année pour l'application de la présente partie."

2. (1) All that portion of subsection 7(1.1) of the said Act following paragraph (c) thereof is repealed and the following substituted therefor:

"in applying paragraph (1)(a) in respect of the employee's acquisition of the share, the reference in that paragraph to "the taxation year in which he acquired the shares" shall be read as "the taxation year in which he disposed of or exchanged the shares"."

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(2) Subsection 7(1.2) of the said Act is repealed.

(3) All that portion of subsection 7(1.5) of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:

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2. (1) Le passage du paragraphe 7(1.1) de la même loi qui suit l'alinéa c) est abrogé et remplacé par ce qui suit :

«pour l'application de l'alinéa (1)a) à l'acquisition de cette action par l'employé, la mention «dans l'année d'imposition où il a acquis les actions» à cet alinéa est remplacée par la mention «dans l'année d'imposition où il a disposé des actions ou les a échangées».»

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(2) Le paragraphe 7(1.2) de la même loi est abrogé.

(3) Le passage du paragraphe 7(1.5) de la même loi qui précède l'alinéa b) est abrogé et remplacé par ce qui suit :

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"(1.5) For the purposes of subsection (1.1) and paragraph 110(1)(d.1), where, in circumstances where subsection 85.1(1) or 87(4) apply, a taxpayer acquires shares of a Canadian corporation (in this subsection referred to as "new shares") in

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«(1.5) Pour l'application du paragraphe (1.1) et de l'alinéa 110(1)d.1), lorsque, dans des circonstances telles que le paragraphe 85.1(1) ou 87(4) s'applique, un contribuable acquiert, en échange d'actions d'une corporation canadienne acqui-

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exchange for shares of a Canadian corporation acquired under an agreement referred to in subsection (1.1) (in this subsection referred to as "exchanged shares"), the following rules apply:

(a) the taxpayer shall be deemed not to have disposed of or exchanged the exchanged shares and not to have acquired the new shares;"

(4) Subsection 7(2) of the said Act is repealed and the following substituted therefor:

"(2) Where a share is held by a trustee in trust or otherwise, either absolutely, conditionally or contingently, for an employee, the employee shall be deemed, for the purposes of this section and paragraphs 110(1)(d) and (d.1),

(a) to have acquired the share at the time the trust commenced so to hold it; and

(b) to have exchanged or disposed of the share at the time the trust exchanged it or disposed of it to any person other than the employee."

(5) Subsections (1) to (4) are applicable with respect to shares acquired after May 22, 1985.

3. (1) Paragraph 8(1)(i) of the said Act is amended by striking out the word "and" at the end of subparagraph (iv) thereof, by adding the word "and" at the end of subparagraph (v) thereof and by adding thereto, immediately after subparagraph (v) thereof, the following subparagraph:

"(vi) dues to a parity or advisory committee or similar body, the payment of which was required under the laws of a province in respect of his employment for the year,"

(2) All that portion of subsection 8(5) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

ses en vertu d'une convention visée au paragraphe (1.1) (appelées «actions échangées» au présent paragraphe), des actions d'une corporation canadienne (appelées «nouvelles actions» au présent paragraphe), les règles suivantes s'appliquent :

a) le contribuable est réputé ne pas avoir disposé des actions échangées ou ne pas les avoir échangées, et ne pas avoir acquis les nouvelles actions;"

(4) Le paragraphe 7(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Lorsqu'un fiduciaire détient une action pour un employé, en fiducie ou autrement, conditionnellement ou non, l'employé est réputé, pour l'application du présent article et des alinéas 110(1)d) et d.1),

a) d'une part, avoir acquis l'action au moment où la fiducie a commencé à ainsi la détenir;

b) d'autre part, avoir échangé l'action ou en avoir disposé à la date où la fiducie l'a échangée avec une autre personne que l'employé ou en a disposé en faveur d'une telle autre personne.»

(5) Les paragraphes (1) à (4) s'appliquent aux actions acquises après le 22 mai 1985.

3. (1) L'alinéa 8(1)i) de la même loi est modifié par suppression du mot «et» à la fin du sous-alinéa (iv), par adjonction de ce mot à la fin du sous-alinéa (v) et par insertion, après ce sous-alinéa, de ce qui suit :

«(vi) cotisations à un comité paritaire ou consultatif ou à un groupement semblable, dont la législation d'une province prévoit le paiement à cause de l'emploi que le contribuable exerce pour l'année,»

(2) Le passage du paragraphe 8(5) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

Shares held by trustee

Actions détenues par un fiduciaire

s not
uctible

“(5) Notwithstanding subparagraphs (1)(i)(i), (iv) and (vi), dues are not deductible thereunder in computing a taxpayer's income from an office or employment to the extent that they are, in effect, levied”

«(5) Par dérogation aux sous-alinéas (1)i(i), (iv) et (vi), les cotisations ne sont pas déductibles en vertu de ces sous-alinéas dans le calcul du revenu qu'un contribuable tire d'une charge ou d'un emploi, dans la mesure où elles sont effectivement prélevées»

Cotisations non
déductibles

(3) Paragraph 8(5)(c) of the said Act is repealed and the following substituted therefor:

(3) L'alinéa 8(5)c) de la même loi est abrogé et remplacé par ce qui suit :

“(c) for any other purpose not directly related to the ordinary operating expenses of the committee or similar body, association or trade union to which they were paid.”

«c) à toute autre fin qui n'est pas directement liée aux frais ordinaires de fonctionnement du comité ou groupement semblable, de l'association ou du syndicat ouvrier auquel elles ont été payées.»

(4) Subsections (1) to (3) are applicable to the 1985 and subsequent taxation years.

(4) Les paragraphes (1) à (3) s'appliquent aux années d'imposition 1985 et suivantes.

4. (1) Subsection 9(3) of the said Act is repealed and the following substituted therefor:

4. (1) Le paragraphe 9(3) de la même loi est abrogé et remplacé par ce qui suit :

“(3) In this Act, “income from a property” does not include any capital gain from the disposition of that property and “loss from a property” does not include any capital loss from the disposition of that property.”

«(3) Dans la présente loi, le revenu tiré d'un bien exclut tout gain en capital résultant de la disposition de ce bien et la perte résultant d'un bien exclut toute perte en capital résultant de la disposition de ce bien.»

Exclusion des
gains et pertes
en capital

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

5. (1) Section 10 of the said Act is amended by adding thereto the following subsections:

5. (1) L'article 10 de la même loi est modifié par adjonction de ce qui suit :

“(6) Notwithstanding subsection (1), for the purpose of computing the income of an individual other than a trust for a taxation year from an artistic endeavour, the value of his property in inventory for that year shall, if the individual so elects in his return of income under this Part for the year, be deemed to be nil.

“(6) Par dérogation au paragraphe (1), la valeur des biens décrits à l'inventaire d'un particulier, à l'exception d'une fiducie, pour une année d'imposition est réputée nulle, si celui-ci en fait le choix dans sa déclaration de revenu en vertu de la présente partie pour l'année, aux fins du calcul du revenu qu'il tire d'une activité artistique pour l'année.

Valeur de
l'inventaire des
produits d'une
activité
artistique

(7) Where an individual has made an election pursuant to subsection (6) for a taxation year, the value of the property in his inventory in respect of his artistic endeavour shall, for each subsequent taxation year, be deemed to be nil unless the individual, with the concurrence of the

(7) Lorsqu'un particulier fait le choix prévu au paragraphe (6) pour une année d'imposition, la valeur des biens décrits à l'inventaire de ce particulier concernant son activité artistique est réputée nulle pour chaque année d'imposition subséquente, sauf s'il révoque le choix avec l'ac-

Idem

"Artistic endeavour" defined

Minister and on such terms and conditions as are specified by the Minister, revokes the election.

(8) For the purpose of this section, "artistic endeavour" of an individual means the business of creating paintings, prints, etchings, drawings, sculptures or similar works of art, where such works of art are created by the individual, but does not include a business of reproducing works of art."

(2) Subsection (1) is applicable with respect to taxation years ending after 1984.

6. (1) Clause 12(1)(o)(v)(A) of the said Act is repealed and the following substituted therefor:

"(A) of petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas (other than a mineral resource) or from an oil or gas well,"

(2) Subsection 12(1) of the said Act is amended by striking out the word "and" at the end of paragraph (v) thereof, by adding the word "and" at the end of paragraph (w) thereof and by adding thereto the following paragraph:

"(x) any amount (other than a prescribed amount) received by the taxpayer in the year, in the course of earning income from a business or property, from

(i) a person who pays the amount (in this paragraph referred to as "the payor") in the course of earning income from a business or property or in order to achieve a benefit or advantage for himself or for persons with whom he does not deal at arm's length, or

(ii) a government, municipality or other public authority

where the amount can reasonably be considered to have been received

(iii) as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, or

cord du ministre et aux conditions précisées par ce dernier.

(8) Pour l'application du présent article, «activité artistique» s'entend d'une entreprise artistique d'un particulier qui consiste pour ce particulier à créer des peintures, estampes, gravures, dessins, sculptures ou oeuvres d'art semblables, à l'exclusion d'une entreprise artistique qui consiste à reproduire de telles oeuvres d'art."

(2) Le paragraphe (1) s'applique aux années d'imposition se terminant après 1984.

6. (1) La division 12(1)(o)(v)(A) de la même loi est abrogée et remplacée par ce qui suit :

«(A) de pétrole, gaz naturel ou hydrocarbures apparentés, tirés d'un gisement naturel de pétrole ou de gaz naturel (à l'exclusion d'une ressource minérale) ou d'un puits de pétrole ou de gaz,»

(2) Le paragraphe 12(1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa v) et par adjonction de ce qui suit :

«x) un montant (à l'exclusion d'un montant prescrit) reçu par le contribuable dans l'année, en tirant un revenu d'une entreprise ou d'un bien,

(i) d'une personne qui paie le montant — appelé «débiteur» au présent alinéa — en tirant un revenu d'une entreprise ou d'un bien ou en vue d'obtenir un avantage pour lui-même ou pour des personnes avec qui il a un lien de dépendance, ou

(ii) d'un gouvernement, d'une municipalité ou d'un autre organisme public,

s'il est raisonnable de considérer le montant comme reçu :

(iii) à titre de paiement incitatif, sous forme de prime, subvention, prêt à remboursement conditionnel, déduction de l'impôt, indemnité ou sous toute autre forme, ou

Définition d'activité artistique

Payments as inducement or as reimbursement etc.

Paiements incitatifs et autres

(iv) as a reimbursement, contribution, allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of the cost of property or in respect of an expense

to the extent that the amount

(v) was not otherwise included in computing the taxpayer's income for the year or a preceding taxation year, (vi) except as provided by subsection 127(11.1), does not reduce, for the purposes of this Act, the cost or capital cost of the property or the amount of the expense, as the case may be, (vii) does not reduce, pursuant to subsection 13(7.4) or paragraph 53(2)(s), the cost or capital cost of the property, as the case may be, or (viii) may not reasonably be considered to be a payment made in respect of the acquisition by the payor or the public authority of an interest in the taxpayer, his business or his property."

(3) Section 12 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

ceipt of
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"(2.1) For the purposes of paragraph (1)(x), where at a particular time a taxpayer who is a beneficiary of a trust or a member of a partnership has received an amount as an inducement, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of inducement, in respect of the activities of the trust or partnership, or as a reimbursement, contribution, allowance or as assistance, whether as a grant, subsidy, forgivable loan, deduction from tax, allowance or any other form of assistance, in respect of the cost of property or in respect of an expense of the trust or partnership, the amount shall be deemed to have been received at that time by the trust or partnership, as the case may be, as such an inducement, reimbursement, contribution, allowance or assistance."

(iv) à titre de remboursement, contribution ou indemnité ou à titre d'aide, sous forme de prime, subvention, prêt à remboursement conditionnel, déduction de l'impôt, indemnité ou sous toute autre forme, à l'égard du coût d'un bien ou à l'égard d'une dépense,

dans la mesure où :

(v) le montant n'est pas déjà inclus dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure, (vi) il ne réduit pas, pour l'application de la présente loi, le coût ou coût en capital du bien ou le montant de la dépense, selon le cas, sous réserve du paragraphe 127(11.1), (vii) il ne réduit pas, conformément au paragraphe 13(7.4) ou à l'alinéa 53(2)s, le coût ou coût en capital du bien, selon le cas, ou (viii) il ne peut être raisonnablement considéré comme un paiement fait au titre de l'acquisition par le débiteur ou par l'organisme public d'un droit sur le contribuable, dans son entreprise ou dans son bien.»

(3) L'article 12 de la même loi est modifié par adjonction de ce qui suit :

«(2.1) Pour l'application de l'alinéa (1)x), lorsque, à une date donnée, un contribuable bénéficiaire d'une fiducie ou membre d'une société reçoit un montant à titre de paiement incitatif, sous forme de prime, subvention, prêt à remboursement conditionnel, déduction de l'impôt, indemnité ou sous toute autre forme, dans le cadre des activités de la fiducie ou de la société, à titre de remboursement, contribution ou indemnité ou à titre d'aide, sous forme de prime, subvention, prêt à remboursement conditionnel, déduction de l'impôt, indemnité ou sous toute autre forme, à l'égard du coût d'un bien ou à l'égard d'une dépense de la fiducie ou de la société, le montant est réputé reçu à cette date par la fiducie ou la société, selon le cas, à titre d'un tel paiement incitatif ou

Réception de
paiements
incitatifs ou
autres

(4) Section 12 of the said Act is further amended by adding thereto, immediately after subsection (10) thereof, the following subsection:

Income from
R.H.O.S.P

“(10.1) Notwithstanding any other provision of this Act, where an individual was at the end of 1985 a beneficiary under a registered home ownership savings plan (within the meanings assigned by paragraphs 146.2(1)(a) and (h) as they read in their application to the 1985 taxation year), that portion of the income that can reasonably be considered to have accrued under the plan before 1986 (other than the portion thereof that can reasonably be considered to be attributable to amounts contributed after May 22, 1985 to or under the plan) shall not be included in computing the income of the individual or of any other person.”

(5) Subsection (1) is applicable with respect to amounts that become receivable after March, 1985.

(6) Subsections (2) and (3) are applicable with respect to amounts received after May 22, 1985 other than amounts received after that date pursuant to the terms of an agreement in writing entered into before May 23, 1985 or to the terms of a prospectus, preliminary prospectus or registration statement filed before May 24, 1985 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by such authority.

(7) Subsection (4) is applicable to the 1986 and subsequent taxation years.

7. (1) Section 12.1 of the said Act is repealed and the following substituted therefor:

Cash bonus on
Canada Savings
Bonds

“12.1 Notwithstanding any other provision of this Act, where in a taxation year a taxpayer receives an amount from the Government of Canada in respect of a Canada Savings Bond as a cash bonus that the Government of Canada has undertak-

remboursement ou d'une telle contribution, indemnité ou aide.»

(4) L'article 12 de la même loi est modifié par insertion, après le paragraphe (10), de ce qui suit :

«(10.1) Nonobstant les autres dispositions de la présente loi, lorsqu'un particulier est bénéficiaire, à la fin de 1985, d'un régime enregistré d'épargne-logement (au sens des alinéas 146.2(1)a) et h) applicables à l'année d'imposition 1985), la partie du revenu qu'il est raisonnable de considérer comme s'étant accumulée dans le cadre du régime avant 1986 (à l'exception de la partie du revenu qu'il est raisonnable de considérer attribuable aux contributions versées après le 22 mai 1985 dans le cadre du régime) ne peut être incluse dans le calcul du revenu du particulier ou d'une autre personne.»

Revenu d'un
régime
enregistré
d'épargne-logement

(5) Le paragraphe (1) s'applique aux montants qui deviennent à recevoir après mars 1985.

(6) Les paragraphes (2) et (3) s'appliquent aux montants reçus après le 22 mai 1985, à l'exclusion des montants reçus après cette date conformément à un accord écrit conclu avant le 23 mai 1985 ou à un prospectus, un prospectus préliminaire ou une déclaration d'enregistrement, produit avant le 24 mai 1985 auprès d'un organisme public au Canada suivant la législation fédérale ou provinciale sur les valeurs mobilières et, si la loi le prévoit, approuvé par un tel organisme.

(7) Le paragraphe (4) s'applique aux années d'imposition 1986 et suivantes.

7. (1) L'article 12.1 de la même loi est abrogé et remplacé par ce qui suit :

«12.1 Nonobstant les autres dispositions de la présente loi, le contribuable qui, au cours d'une année d'imposition, reçoit du gouvernement du Canada, sur une obligation d'épargne du Canada, une prime en argent comptant que ce gouvernement

Primes en
argent
comptant sur
les obligations
d'épargne du
Canada

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en to pay (other than any amount of interest, bonus or principal agreed to be paid at the time of the issue of the bond under the terms of the bond), he shall, in computing his income for the year, include as interest in respect of the Canada Savings Bond 1/2 of the cash bonus so received." 5

(2) Subsection (1) is applicable with respect to amounts received after 1984.

8. (1) Paragraph 13(7)(b) of the said Act 10 is repealed and the following substituted therefor:

"(b) where a taxpayer, having acquired property for some other purpose, has commenced at a later time to use it for 15 the purpose of gaining or producing income therefrom, or for the purpose of gaining or producing income from a business, he shall be deemed to have acquired it at that later time at a capital 20 cost to him equal to the lesser of

(i) its fair market value at that later time, and

(ii) the aggregate of

(A) its cost to him at that later 25 time determined without reference to this paragraph, paragraph (a) and subparagraph (d)(ii), and

(B) 1/2 of the amount, if any, by which his proceeds of disposition of 30 the property exceeds the cost to him of the property immediately before that later time to the extent that it can be established that no deduction under section 110.6 was 35 claimed by him in respect of that amount;"

(2) Subparagraph 13(7)(d)(i) of the said Act is repealed and the following substituted therefor:

"(i) if the use regularly made by him of the property for the purpose of gaining or producing income has increased, he shall be deemed to have acquired at that time depreciable 45 property of that class at a capital cost equal to the aggregate of

s'est engagé à payer (en sus des intérêts, prime ou principal dont le paiement a été convenu à la date d'émission de l'obligation conformément aux conditions de celle-ci) doit inclure comme intérêts, dans le 5 calcul de son revenu pour l'année, la moitié de la prime en argent comptant qu'il reçoit ainsi sur l'obligation.»

(2) Le paragraphe (1) s'applique aux primes en argent comptant reçues après 10 1984.

8. (1) L'alinéa 13(7)b) de la même loi est abrogé et remplacé par ce qui suit :

«b) le contribuable ayant acquis un bien à une autre fin, qui commence, à une 15 date postérieure, à l'utiliser en vue d'en tirer un revenu ou de tirer un revenu d'une entreprise est réputé l'avoir acquis à cette date postérieure à un coût en capital, pour lui, égal au moindre : 20

(i) de la juste valeur marchande du bien à cette date postérieure,

(ii) du total

(A) du coût du bien pour lui à cette date postérieure calculé sans tenir 25 compte du présent alinéa, de l'alinéa a) et du sous-alinéa d)(ii), et

(B) de la moitié de l'excédent éventuel du produit de disposition du bien pour lui sur le coût du bien 30 pour lui immédiatement avant cette date postérieure, dans la mesure où il est établi qu'il n'a demandé aucune déduction en vertu de l'article 110.6 à l'égard de cet excédent;» 35

(2) Le sous-alinéa 13(7)d)(i) de la même loi est abrogé et remplacé par ce qui suit :

«(i) si l'usage qu'il fait habituellement du bien aux fins de tirer un revenu a augmenté, le contribuable 40 est réputé avoir acquis, à cette date, un bien amortissable de cette catégorie à un coût en capital égal au total

(A) the proportion of the lesser of

(I) its fair market value at that time, and

(II) its cost to him at that time determined without reference to this subparagraph, subparagraph (ii) and paragraph (a)

that the amount of the increase in the use regularly made by him of the property for that purpose is of the whole of the use regularly made of the property, and

(B) 1/2 of the amount, if any, by which his proceeds of disposition of the property exceeds the cost to him of the property immediately before that time to the extent that it can be established that no deduction under section 110.6 was claimed by him in respect of that amount, and”

(3) Subsection 13(7) of the said Act is further amended by striking out the word “and” at the end of paragraph (c) thereof, by adding the word “and” at the end of paragraph (d) thereof and by adding thereto the following paragraph:

“(e) notwithstanding any other provision of this Act, where at a particular time a person or partnership (in this paragraph referred to as the “taxpayer”) has, directly or indirectly, in any manner whatever, acquired a depreciable property of a prescribed class from a person or partnership with whom he did not deal at arm’s length (in this paragraph referred to as the “transferor”) and the property was a capital property of the transferor,

(i) where the transferor was an individual resident in Canada or a partnership any member of which was either an individual resident in Canada or another partnership and the cost of the property to the taxpayer at that time determined without reference to this paragraph exceeds the cost, or where the property was depreciable property, the capital cost of the property to the transferor immediately before he disposed of it,

(A) du produit obtenu en multipliant par le rapport entre l’augmentation de l’usage que le contribuable fait habituellement du bien à ces fins et l’usage total habituel de ce bien, le moindre :

(I) de la juste valeur marchande du bien à cette date,

(II) du coût du bien pour lui à cette date calculé sans tenir compte du présent sous-alinéa, du sous-alinéa (ii) et de l’alinéa a), et

(B) de la moitié de l’excédent éventuel du produit de disposition du bien pour lui sur le coût du bien pour lui immédiatement avant cette date, dans la mesure où il est établi qu’il n’a demandé aucune déduction en vertu de l’article 110.6 à l’égard de cet excédent, et»

(3) Le paragraphe 13(7) de la même loi est modifié par adjonction de ce qui suit :

«e) nonobstant les autres dispositions de la présente loi, lorsqu’une personne ou société — appelée «contribuable» au présent alinéa — a acquis à une date donnée, directement ou indirectement, de quelque façon que ce soit, un bien amortissable d’une catégorie prescrite d’une personne ou société avec qui le contribuable avait un lien de dépendance — appelée «auteur du transfert» au présent alinéa — et que le bien était un bien en immobilisation de l’auteur du transfert,

(i) si l’auteur du transfert était un particulier qui résidait au Canada ou une société dont un membre était un particulier qui résidait au Canada ou une autre société et si le coût du bien pour le contribuable à cette date, calculé sans tenir compte du présent alinéa, dépasse le coût ou, s’il s’agit d’un bien amortissable, le coût en capital du bien pour l’auteur du transfert immédiatement avant que celui-ci

the capital cost of the property to the taxpayer at that time shall be deemed to be the amount that is equal to the aggregate of

(A) the cost or capital cost, as the case may be, of the property to the transferor immediately before that time, and

(B) 1/2 of the amount, if any, by which the transferor's proceeds of disposition of the property exceeds the cost or capital cost, as the case may be, to the transferor immediately before that time to the extent that it can be established that no deduction under section 110.6 was claimed by any person in respect of that amount

and, for the purposes of paragraph (b) and subparagraph (d)(i), the cost of the property to the taxpayer shall be deemed to be the same amount,

(ii) where the transferor was neither an individual resident in Canada nor a partnership any member of which was either an individual resident in Canada or another partnership and the cost of the property to the taxpayer at that time determined without reference to this paragraph exceeds the cost, or where the property was depreciable property, the capital cost of the property to the transferor immediately before he disposed of it, the capital cost of the property to the taxpayer at that time shall be deemed to be the amount that is equal to the aggregate of

(A) the cost or capital cost, as the case may be, of the property to the transferor immediately before that time, and

(B) 1/2 of the amount, if any, by which the transferor's proceeds of disposition of the property exceed the cost or capital cost, as the case may be, to the transferor immediately before that time

and, for the purposes of paragraph (b) and subparagraph (d)(i), the cost of the property to the taxpayer shall be deemed to be the same amount, and

en ait disposé, le coût en capital du bien pour le contribuable à cette date est réputé correspondre au total :

(A) du coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant cette date, et

(B) de la moitié de l'excédent éventuel du produit de disposition du bien pour l'auteur du transfert sur le coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant cette date, dans la mesure où il est établi que personne n'a demandé de déduction en vertu de l'article 110.6 à l'égard de cet excédent;

de plus, pour l'application de l'alinéa b) et du sous-alinéa d)(i), le coût du bien pour le contribuable est réputé correspondre au même total;

(ii) si l'auteur du transfert n'était ni un particulier qui résidait au Canada ni une société dont un membre était un particulier qui résidait au Canada ou une autre société et si le coût du bien pour le contribuable à cette date, calculé sans tenir compte du présent alinéa, dépasse le coût ou, s'il s'agit d'un bien amortissable, le coût en capital du bien pour l'auteur du transfert immédiatement avant que celui-ci en ait disposé, le coût en capital du bien pour le contribuable à cette date est réputé correspondre au total :

(A) du coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant cette date, et

(B) de la moitié de l'excédent éventuel du produit de disposition du bien pour l'auteur du transfert sur ce coût ou coût en capital, selon le cas, pour l'auteur du transfert immédiatement avant cette date;

de plus, pour l'application de l'alinéa b) et du sous-alinéa d)(i), le coût du bien pour le contribuable est réputé correspondre au même total;

(iii) si le coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant que

(iii) where the cost or capital cost, as the case may be, of the property to the transferor immediately before he disposed of it exceeds the capital cost of the property to the taxpayer at that time determined without reference to this paragraph, the capital cost of the property to the taxpayer at that time shall be deemed to be the amount that was the cost or capital cost, as the case may be, of the property to the transferor immediately before he disposed of it and the excess shall be deemed to have been allowed to the taxpayer in respect of the property under regulations made under paragraph 20(1)(a) in computing his income for taxation years ending before the acquisition of the property by the taxpayer.”

celui-ci en ait disposé dépasse le coût en capital du bien pour le contribuable à cette date, calculé sans tenir compte du présent alinéa, le coût en capital du bien pour le contribuable à cette date est réputé correspondre au coût ou coût en capital, selon le cas, du bien pour l'auteur du transfert immédiatement avant que celui-ci en ait disposé, et l'excédent est réputé avoir été admis en déduction au titre du bien, conformément aux règlements pris en application de l'alinéa 20(1)a), dans le calcul du revenu du contribuable pour les années d'imposition se terminant avant que celui-ci ait acquis le bien.»

(4) Paragraph 13(7.1)(c) of the said Act is repealed and the following substituted therefor:

(4) L'alinéa 13(7.1)c) de la même loi est abrogé et remplacé par ce qui suit :

“(c) the capital cost thereof to the taxpayer, determined without reference to this subsection and subsection (7.4), and”

«c) du coût en capital du bien pour le contribuable, calculé sans tenir compte du présent paragraphe et du paragraphe (7.4), et»

(5) Section 13 of the said Act is further amended by adding thereto, immediately after subsection (7.2) thereof, the following subsections:

(5) L'article 13 de la même loi est modifié par insertion, après le paragraphe (7.2), de 25 ce qui suit :

“(7.3) For the purposes of paragraph (7)(e), where at a particular time one corporation would, but for this subsection, be related to another corporation by reason of both corporations being controlled by the same trustee or executor and it is established that

“(7.3) Pour l'application de l'alinéa (7)e), deux corporations qui, parce que contrôlées par le même fiduciaire ou exécuteur testamentaire, seraient liées l'une à l'autre à une date donnée, n'eût été le présent paragraphe, sont réputées ne pas l'être à cette date s'il est établi :

(a) the trustee or executor did not acquire control of the corporations as a result of one or more trusts or estates created by the same individual or by two or more individuals not dealing with each other at arm's length, and

a) d'une part, que le fiduciaire ou l'exécuteur testamentaire n'a pas acquis le contrôle des corporations par suite de la création d'une ou plusieurs fiducies ou successions par le même particulier ou par deux ou plusieurs particuliers qui ont un lien de dépendance entre eux;

(b) the trust or estate under which the trustee or executor acquired control of each of the corporations arose only on the death of the individual creating the trust or estate,

b) d'autre part, que la fiducie ou succession en vertu de laquelle le fiduciaire ou exécuteur testamentaire a acquis le contrôle de chacune des corporations ne

Control of corporations by one trustee

Contrôle d'une corporation par un fiduciaire

the two corporations shall be deemed not to be related to each other at that particular time.

deemed capital
cost of certain
property

(7.4) Notwithstanding subsection (7.1), where a taxpayer has in a taxation year received an amount that would, but for this subsection, be included in his income under paragraph 12(1)(x) in respect of the cost of a depreciable property acquired by him in the year, in the three taxation years immediately preceding the year or in the taxation year immediately following the year and the taxpayer elects under this subsection on or before the day on or before which he is required to file his return of income under this Part for the year, or, where the property is acquired in the taxation year immediately following the year, for that following year, the capital cost of the property to the taxpayer shall be deemed to be the amount by which the aggregate of

(a) the capital cost of the property to the taxpayer otherwise determined, applying the provisions of subsection (7.1), where necessary, and

(b) such part, if any, of the amount received by the taxpayer as has been repaid by him pursuant to a legal obligation to repay all or any part of that amount, in respect of that property and before the disposition thereof by him, and as may reasonably be considered to be in respect of the amount elected under this subsection in respect of the property

exceeds the amount elected by the taxpayer under this subsection, but in no case shall the amount elected under this subsection exceed the least of

(c) the amount so received by the taxpayer,

(d) the capital cost of the property to the taxpayer otherwise determined, and

(e) where the taxpayer has disposed of the property before the year, nil."

(6) Paragraph 13(21)(f) of the said Act is amended by striking out the word "and" at

commence à exister qu'au décès du particulier qui a créé la fiducie ou succession.

Coût en capital
réputé de
certains biens

(7.4) Par dérogation au paragraphe (7.1), lorsqu'un contribuable a reçu dans une année d'imposition un montant qui, n'eût été le présent paragraphe, serait inclus dans son revenu en vertu de l'alinéa 12(1)x) à l'égard du coût d'un bien amortissable qu'il a acquis dans l'année, dans les trois années d'imposition précédant l'année ou dans l'année d'imposition suivant l'année, et que le contribuable en fait le choix en vertu du présent paragraphe, au plus tard à la date où il est tenu de produire sa déclaration de revenu en vertu de la présente partie pour l'année ou, si le bien est acquis dans l'année d'imposition suivant l'année, pour cette année suivante, le coût en capital du bien pour le contribuable est réputé correspondre à l'excédent du total :

a) du coût en capital du bien pour le contribuable, calculé par ailleurs en appliquant, au besoin, les dispositions du paragraphe (7.1), et

b) de la partie éventuelle du montant reçu par le contribuable et remboursé par celui-ci, conformément à une obligation légale d'en rembourser tout ou partie, relativement au bien avant qu'il n'en ait disposé, qu'il est raisonnable de considérer comme relative au montant choisi en vertu du présent paragraphe relativement au bien,

sur le montant choisi par le contribuable en vertu du présent paragraphe; toutefois, le montant choisi ne peut en aucun cas dépasser le moindre des montants suivants :

c) le montant ainsi reçu par le contribuable;

d) le coût en capital du bien pour le contribuable, calculé par ailleurs;

e) zéro, si le contribuable a disposé du bien avant l'année.»

(6) L'alinéa 13(21)f) de la même loi est modifié par suppression du mot «et» à la fin

the end of subparagraph (ii) thereof, by adding the word "and" at the end of subparagraph (ii.1) thereof and by adding thereto, immediately after subparagraph (ii.1) thereof, the following subparagraph:

du sous-alinéa (ii) et par insertion, après le sous-alinéa (ii.1), de ce qui suit :

"(ii.2) all amounts each of which is an amount repaid in respect of a property of the class subsequent to the disposition thereof by him that would have been an amount described in paragraph (7.4)(b) had the repayment been made before the disposition,"

«(ii.2) des montants dont chacun représente un montant, remboursé relativement à un bien de la catégorie après la disposition de celui-ci par le contribuable, qui aurait été visé à l'alinéa (7.4)b) si le remboursement avait été fait avant la disposition,»

(7) Subsections (1) to (3) and subsection 13(7.3) of the said Act, as enacted by subsection (5), are applicable with respect to property acquired after May 22, 1985 other than property acquired before 1986 pursuant to an agreement in writing entered into before May 23, 1985.

(7) Les paragraphes (1) à (3), ainsi que le paragraphe 13(7.3) de la même loi, édicté par le paragraphe (5), s'appliquent aux biens acquis après le 22 mai 1985, à l'exclusion des biens acquis avant 1986 conformément à un accord écrit conclu avant le 23 mai 1985.

(8) Subsections (4) and (6) and subsection 13(7.4) of the said Act, as enacted by subsection (5), are applicable to the 1985 and subsequent taxation years.

(8) Les paragraphes (4) et (6), ainsi que le paragraphe 13(7.4) de la même loi, édicté par le paragraphe (5), s'appliquent aux années d'imposition 1985 et suivantes.

9. (1) Section 15 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

9. (1) L'article 15 de la même loi est 20 modifié par insertion, après le paragraphe (1), de ce qui suit :

"(1.1) Notwithstanding subsection (1), where in a taxation year a corporation has paid a stock dividend to a person and it may reasonably be considered that one of the purposes of such payment was to significantly alter the value of the interest of any specified shareholder of the corporation, the fair market value of the stock dividend shall, except to the extent that it is otherwise included in computing that person's income under paragraph 82(1)(a), be included in computing the income of that person for the year."

«(1.1) Par dérogation au paragraphe (1), lorsque, dans une année d'imposition, une corporation verse un dividende en actions à une personne et qu'il est raisonnable de considérer qu'un des motifs du versement consiste à modifier de façon sensible la valeur de la participation d'un actionnaire désigné de la corporation, la juste valeur marchande du dividende en actions doit être incluse dans le calcul du revenu de cette personne pour l'année sauf dans la mesure où elle est déjà incluse dans le calcul du revenu de cette personne en vertu de l'alinéa 82(1)a).»

(2) Subsection (1) is applicable with respect to stock dividends paid after November 21, 1985 other than stock dividends declared on or before that day.

(2) Le paragraphe (1) s'applique aux dividendes en actions versés après le 21 novembre 1985, à l'exclusion des dividendes en actions déclarés le 21 novembre 1985 ou 40 avant.

Conferring of
benefit

Octroi d'un
avantage

10. (1) All that portion of subsection 15.1(2) of the said Act preceding paragraph (d) thereof is repealed and the following substituted therefor:

“(2) Where a corporation (in this section referred to as the “issuer”) has issued an obligation that is at any time a small business development bond, notwithstanding any other provision of this Act, the following rules apply:

(a) in computing the income of the issuer for a taxation year, no deduction shall be made in respect of any amount paid or payable (depending on the method regularly followed by the issuer in computing its income) for a period that includes that time as or on account of interest on the bond;

(b) except for the purposes of subsection 129(1), to the extent that any amount paid by the issuer as or on account of interest on the bond is not allowed as a deduction by virtue of paragraph (a), it shall, when paid, be deemed to have been paid as a taxable dividend; and”

(2) Paragraph 15.1(2)(d) of the said Act is repealed and the following substituted therefor:

“(d) except for the purposes of paragraph 125(1)(b), the taxable income of the issuer for any taxation year that includes a period throughout which the obligation was a small business development bond but

(i) the issuer was not an eligible small business corporation,
(ii) the property acquired with the proceeds of the bond or the property referred to in clause (3)(b)(iii)(C)

(A) was not property used for specified purposes by the issuer, or

(B) was not owned by the issuer, or

(iii) all or substantially all of the proceeds from the issue of an obligation issued in circumstances described in clauses (3)(b)(iv)(A) to (C) cannot reasonably be regarded as having been used by the issuer or a corpora-

10. (1) Le passage du paragraphe 15.1(2) de la même loi qui précède l'alinéa d) est abrogé et remplacé par ce qui suit :

«(2) Lorsqu'une corporation — appelée «émetteur» au présent article — émet un titre qui est, à une date donnée, une obligation pour le développement de la petite entreprise, les règles suivantes s'appliquent, nonobstant les autres dispositions de la présente loi :

a) aucune déduction ne peut être faite, dans le calcul du revenu de l'émetteur pour une année d'imposition, à l'égard d'une somme payée ou payable (selon la méthode qu'utilise habituellement l'émetteur pour calculer son revenu) pour une période qui comprend la date donnée au titre des intérêts sur l'obligation;

b) sauf pour l'application du paragraphe 129(1), une somme payée par l'émetteur au titre des intérêts sur l'obligation, qui n'est pas admise en déduction en vertu de l'alinéa a), est réputée, une fois payée, l'avoir été à titre de dividende imposable;»

(2) L'alinéa 15.1(2)d) de la même loi est abrogé et remplacé par ce qui suit :

«d) sauf pour l'application de l'alinéa 125(1)b), le revenu imposable de l'émetteur pour une année d'imposition qui comprend une période tout au long de laquelle le titre est une obligation pour le développement de la petite entreprise et tout au long de laquelle :

(i) soit l'émetteur n'est pas une corporation admissible exploitant une petite entreprise,

(ii) soit le bien acquis avec le produit de l'obligation ou du bien visé à la division (3)b)(iii)(C)

(A) n'est pas un bien utilisé par l'émetteur à des fins désignées, ou

(B) n'appartient pas à l'émetteur,

(iii) soit il n'est pas raisonnable de considérer que la totalité ou presque du produit de l'émission d'un titre émis dans une situation visée aux divi-

tion with which it was not dealing at arm's length in the financing of an active business carried on in Canada immediately before the time of its issuance

shall be deemed to be an amount equal to the aggregate of

(iv) the amount paid or payable (depending on the method regularly followed by the issuer in computing its income) for that period as or on account of interest on the obligation, and

(v) its taxable income otherwise determined for the year."

(3) Subparagraph 15.1(3)(a)(i) of the said Act is repealed and the following substituted therefor:

"(i) a small business corporation, or"

(4) All that portion of paragraph 15.1(3)(b) of the said Act preceding subparagraph (iii) thereof is repealed and the following substituted therefor:

"(b) "qualifying debt obligation" of a corporation at any particular time means an obligation that is a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued after December 11, 1979 and before 1988,

(i) the principal amount of which is not less than \$10,000 or more than \$500,000,

(ii) that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, and

(ii.1) that was issued not more than five years before the particular time

if"

(5) All that portion of subsection 15.1(9) of the said Act preceding subparagraph (b)(i) thereof is repealed and the following substituted therefor:

"(9) Where an issuer or any corporation associated with the issuer has made a joint election in respect of a small business

sions (3)b)(iv)(A) à (C) est utilisée par l'émetteur ou par une corporation avec laquelle il a un lien de dépendance pour le financement d'une entreprise exploitée activement au Canada immédiatement avant la date de l'émission du titre,

est réputé correspondre au total des montants suivants :

(iv) la somme payée ou payable (selon la méthode qu'utilise habituellement l'émetteur pour calculer son revenu) pour cette période au titre des intérêts sur le titre,

(v) son revenu imposable calculé par ailleurs pour l'année."

(3) Le sous-alinéa 15.1(3)a)(i) de la même loi est abrogé et remplacé par ce qui suit :

«(i) une corporation exploitant une petite entreprise, ou»

(4) Le passage de l'alinéa 15.1(3)b) de la même loi qui précède le sous-alinéa (iii) est abrogé et remplacé par ce qui suit :

«b) «créance admissible» d'une corporation à une date donnée s'entend d'un titre — obligation, effet, billet, mortgage, hypothèque ou titre semblable — émis après le 11 décembre 1979 et avant 1988,

(i) dont le principal n'est ni inférieur à 10 000 \$ ni supérieur à 500 000 \$,

(ii) dont la durée est d'au plus cinq ans et, sauf en cas d'inexécution des conditions du titre, d'au moins un an, et

(ii.1) qui est émis au plus cinq ans avant la date donnée,

si»

(5) Le passage du paragraphe 15.1(9) de la même loi qui précède le sous-alinéa b)(i) est abrogé et remplacé par ce qui suit :

«(9) Lorsqu'un émetteur ou une corporation associée à celui-ci effectuent un choix commun à l'égard d'une obligation

"Qualifying debt obligation"

«créance admissible

Exception

Exception

development bond, subsection (7) shall not apply with respect to the issuer and any corporation associated with that issuer that would, but for subsection (7), be an eligible small business corporation in respect of any obligation issued at any particular time after May 23, 1985 in circumstances described in any of clauses (3)(b)(iv)(A) to (C), if the issue price of any such bond does not exceed the amount, if any, by which

(a) \$500,000

exceeds

(b) the aggregate of all amounts each of which is the principal amount outstanding at that time in respect of

(6) Subsections (1), (2) and (4) are applicable after June 30, 1985.

(7) Subsection (3) is applicable to the 1985 and subsequent taxation years.

(8) Subsection (5) is applicable with respect to obligations issued after May 23, 1985.

11. (1) Subsection 15.2(2) of the said Act is repealed and the following substituted therefor:

“(2) Where an individual or partnership (in this section referred to as the “issuer”) has issued an obligation that is at any time a small business bond, notwithstanding any other provision of this Act, the following rules apply:

(a) in computing the income of the issuer for a taxation year, no deduction shall be made in respect of any amount paid or payable (depending on the method regularly followed by the issuer in computing its income) for a period that includes that time as or on account of interest on the bond; and

(b) for any taxation year that includes a period throughout which the obligation was a small business development bond but

(i) the issuer was not an eligible issuer, or

(ii) all or substantially all of the proceeds from the issue of an obligation

pour le développement de la petite entreprise, le paragraphe (7) ne s'applique ni à l'émetteur ni à une corporation associée à celui-ci qui serait, sans ce paragraphe, une corporation admissible exploitant une petite entreprise, à l'égard d'un titre émis à une date donnée postérieure au 23 mai 1985 dans une situation visée aux divisions (3)b)(iv)(A) à (C), si le prix d'émission d'une telle obligation ne dépasse pas l'ex-cédent éventuel

a) de 500 000 \$

sur

b) le total des montants dont chacun représente le principal impayé à cette date donnée»

(6) Les paragraphes (1), (2) et (4) s'appliquent après le 30 juin 1985.

(7) Le paragraphe (3) s'applique aux 20 années d'imposition 1985 et suivantes.

(8) Le paragraphe (5) s'applique aux titres émis après le 23 mai 1985.

11. (1) Le paragraphe 15.2(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Lorsqu'un particulier ou une société — appelé «émetteur» au présent article — émet un titre qui est, à une date donnée, une obligation pour la petite entreprise, les règles suivantes s'appliquent, nonobstant les autres dispositions de la présente loi :

a) aucune déduction ne peut être faite, dans le calcul du revenu de l'émetteur pour une année d'imposition, à l'égard d'une somme payée ou payable (selon la méthode qu'utilise habituellement l'émetteur pour calculer son revenu) pour une période qui comprend la date donnée au titre des intérêts sur l'obligation;

b) une somme correspondant à 34 % des intérêts payés ou payables (selon la méthode qu'utilise habituellement l'émetteur pour calculer son revenu) sur le titre pour la période d'une année d'imposition, tout au long de laquelle le

issued in circumstances described in subparagraph (3)(a)(iii) were not used by the eligible issuer in the financing of an active business carried on by it in Canada immediately before the time of the issuance of the obligation,

there shall be added to the tax otherwise payable by the issuer for that taxation year an amount equal to 34% of the amount of interest paid or payable (depending on the method regularly followed by the issuer in computing its income) in respect of the bond for that period.”

(2) All that portion of paragraph 15.2(3)(a) of the said Act preceding subparagraph (iii) thereof is repealed and the following substituted therefor:

“(a) “qualifying debt obligation” of an individual or a partnership at any time means an obligation that is a bill, note, mortgage, hypothec or similar obligation issued after November 12, 1981 and before 1988,

(i) the principal amount of which is not less than \$10,000 or more than \$500,000,

(ii) that is issued for a term of not more than five years and, except in the event of a failure or default under the terms or conditions of the obligation, not less than one year, and

(ii.1) that was issued not more than five years before that time

if”

(3) Subsection 15.2(7) of the said Act is repealed and the following substituted therefor:

“(7) Where an individual, a partnership of which the individual is a majority interest partner (within the meaning assigned by subsection 97(3.1)) or a corporation that is controlled by

(a) the individual,

(b) a related group of which the individual is a member, or

titre est une obligation pour le développement de la petite entreprise et tout au long de laquelle :

(i) soit l'émetteur n'est pas un émetteur admissible,

(ii) soit l'émetteur admissible n'utilise pas la totalité ou presque du produit de l'émission d'un titre émis dans une situation visée au sous-alinéa (3)a)(iii) pour le financement d'une entreprise exploitée activement au Canada immédiatement avant la date d'émission du titre,

est ajoutée à l'impôt payable par ailleurs par l'émetteur pour cette année d'imposition.»

(2) Le passage de l'alinéa 15.2(3)a) de la même loi qui précède le sous-alinéa (iii) est abrogé et remplacé par ce qui suit :

«a) «créance admissible» d'un particulier ou d'une société à une date donnée s'entend d'un titre — effet, billet, mortgage, hypothèque ou titre semblable — émis après le 12 novembre 1981 et avant 1988,

(i) dont le principal n'est ni inférieur à 10 000 \$ ni supérieur à 500 000 \$,

(ii) dont la durée est d'au plus cinq ans et, sauf en cas d'inexécution des conditions du titre, d'au moins un an, et

(ii.1) qui est émis au plus cinq ans avant la date donnée,

si»

(3) Le paragraphe 15.2(7) de la même loi est abrogé et remplacé par ce qui suit :

«(7) Lorsqu'un particulier, une société dont il est un associé détenant une participation majoritaire au sens du paragraphe 97(3.1), ou une corporation contrôlée

a) par le particulier,

b) par un groupe lié dont le particulier est membre, ou

c) par un membre de la société qui est un associé détenant une participation

“Qualifying debt obligation”

Deemed eligible issuer

*créance admissible.

Émetteurs admissibles réputés

(c) a member of the partnership who is a majority interest partner of the partnership (within the meaning assigned by subsection 97(3.1))

has previously made a joint election in respect of a small business bond or, in the case of a corporation, a small business development bond, the individual and any partnership of which the individual is a majority interest partner (within the meaning assigned by subsection 97(3.1)) shall be deemed to be an eligible issuer in respect of any additional small business bond that the individual or partnership may issue at any particular time after May 23, 1985 if at the particular time the issue price of such additional bond does not exceed the amount, if any, by which

(d) \$500,000

exceeds,

(e) where the issuer is an individual, the aggregate of all amounts each of which is the principal amount outstanding at that particular time in respect of

(i) another small business bond issued

(A) before the particular time by the individual, or

(B) at or before the particular time by a partnership of which the individual is a majority interest partner (within the meaning assigned by subsection 97(3.1)), or

(ii) a small business development bond issued at or before the particular time by

(A) a corporation that is controlled by the individual, or by a related group of which the individual is a member, or

(B) a corporation that is associated with a corporation referred to in clause (A), or

(f) where the issuer is a partnership, the aggregate of all amounts each of which is the principal amount outstanding at that particular time in respect of

(i) another small business bond issued

majoritaire au sens du paragraphe 97(3.1)

effectuée antérieurement un choix commun à l'égard d'une obligation pour la petite entreprise ou, dans le cas d'une corporation, à l'égard d'une obligation pour le développement de la petite entreprise, le particulier et toute société dont il est un associé détenant une participation majoritaire au sens du paragraphe 97(3.1) sont réputés être des émetteurs admissibles à l'égard de toute obligation additionnelle pour la petite entreprise que le particulier ou la société peut émettre à une date donnée postérieure au 23 mai 1985, si, à cette date donnée, le prix d'émission de cette obligation additionnelle ne dépasse l'excédent éventuel

d) de 500 000 \$

sur

e) dans le cas où l'émetteur est un particulier, le total des sommes dont chacune représente le principal impayé à la date donnée

(i) soit d'une autre obligation pour la petite entreprise émise

(A) avant la date donnée par le particulier, ou

(B) au plus tard à la date donnée, par une société dont le particulier est un associé détenant une participation majoritaire au sens du paragraphe 97(3.1),

(ii) soit d'une obligation pour le développement de la petite entreprise émise au plus tard à la date donnée

(A) par une corporation contrôlée par le particulier ou par un groupe lié dont le particulier est membre, ou

(B) par une corporation associée à une corporation visée à la division (A);

f) dans le cas où l'émetteur est une société, le total des sommes dont chacune représente le principal impayé à la date donnée

(i) soit d'une autre obligation pour la petite entreprise émise

Inventory allowance

Déduction pour inventaire

<p>(A) before the particular time by the partnership, or (B) at or before the particular time by an individual who is a majority interest partner of the partnership (within the meaning assigned by subsection 97(3.1)), or (ii) a small business development bond issued at or before the particular time by (A) a corporation that is controlled by the individual referred to in clause (i)(B) or by a related group of which the individual is a member, or (B) a corporation that is associated with a corporation referred to in clause (A).”</p>	<p>(A) avant la date donnée, par la société, ou (B) au plus tard à la date donnée, par un particulier qui est un associé détenant une participation majoritaire dans la société au sens du paragraphe 97(3.1), (ii) soit d’une obligation pour le développement de la petite entreprise émise au plus tard à la date donnée (A) <u>par</u> une corporation <u>contrôlée</u> ou bien <u>par</u> le particulier visé à la <u>division</u> (i)(B), ou bien <u>par</u> un groupe lié dont le particulier est membre, ou (B) <u>par</u> une corporation associée à une corporation visée à la <u>division</u> (A).»</p>
<p>(4) Subsections (1) and (2) are applicable after June 30, 1985.</p>	<p>(4) Les paragraphes (1) et (2) s’appliquent 20 après le 30 juin 1985.</p>
<p>(5) Subsection (3) is applicable with respect to obligations issued after May 23, 1985.</p>	<p>(5) Le paragraphe (3) s’applique aux titres émis après le 23 mai 1985.</p>
<p>12. (1) Clause 18(1)(m)(v)(A) of the said Act is repealed and the following substituted therefor: “(A) petroleum, natural gas or related hydrocarbons from a natural accumulation of petroleum or natural gas in Canada (other than a mineral resource) or from an oil or gas well in Canada,”</p>	<p>12. (1) La division 18(1)m)(v)(A) de la même loi est abrogée et remplacée par ce qui suit : «(A) de pétrole, gaz naturel ou hydrocarbures apparentés, tirés d’un gisement naturel de pétrole ou de gaz naturel (à l’exclusion d’une ressource minérale) ou d’un puits de pétrole ou de gaz situés au Canada,»</p>
<p>(2) Subsection 18(11) of the said Act is amended by adding the word “or” at the end of paragraph (c) thereof and by repealing paragraphs (e) to (h) thereof.</p>	<p>(2) Les alinéas 18(11)e) à h) de la même loi sont abrogés.</p>
<p>(3) Subsection (1) is applicable with respect to amounts paid or that become payable after March, 1985.</p>	<p>(3) Le paragraphe (1) s’applique aux montants payés ou qui deviennent payables après mars 1985.</p>
<p>(4) Subsection (2) is applicable to the 1986 and subsequent taxation years.</p>	<p>(4) Le paragraphe (2) s’applique aux années d’imposition 1986 et suivantes.</p>
<p>13. (1) All that portion of paragraph 20(1)(gg) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor: “(gg) an amount in respect of any business carried on by the taxpayer in the</p>	<p>13. (1) Le passage de l’alinéa 20(1)gg) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit : «gg) une somme au titre d’une entreprise exploitée par le contribuable pen-</p>

year, equal to that portion of 3% of the cost amount to the taxpayer, at the commencement of the year, of the tangible property (other than real property or an interest therein and currency that is held for other than its numismatic value) that was”

(2) Subsection 20(1) of the said Act is further amended by adding thereto, immediately after paragraph (gg) thereof, the following paragraph:

“(hh) an amount repaid by the taxpayer in the year pursuant to a legal obligation to repay all or part of an amount included under paragraph 12(1)(x) in computing his income for the year or a preceding taxation year;”

(3) Subsection 20(1) of the said Act is further amended by striking out the word “and” at the end of paragraph (ll) thereof, by adding the word “and” at the end of paragraph (mm) thereof and by adding thereto the following paragraph:

“(nn) the tax, if any, paid under Part VI by the taxpayer for the year.”

(4) Subsection (1) is applicable to taxation years commencing after May 23, 1985.

(5) Subsection (2) is applicable to the 1985 and subsequent taxation years.

(6) Subsection (3) is applicable after May 23, 1985.

14. (1) Paragraphs 35(1)(c) to (e) of the said Act are repealed and the following substituted therefor:

“(c) notwithstanding any other provision of this Act, no amount in respect of the receipt of the share shall be included (i) in computing the income for the year of the individual or person, as the case may be, except as provided in paragraph (d), or (ii) in computing at any time the amount referred to in subparagraph 66.2(5)(b)(v) in respect of the

dant l'année, égale au produit de 3 % du coût indiqué pour le contribuable, au début de l'année, des biens corporels (à l'exclusion des biens immeubles, des droits sur ceux-ci et du numéraire qui n'est pas détenu pour sa valeur d'un point de vue numismatique) qui étaient”

(2) Le paragraphe 20(1) de la même loi est modifié par insertion, après l'alinéa gg), de ce qui suit :

«hh) une somme remboursée par le contribuable dans l'année conformément à une obligation légale de rembourser tout ou partie d'un montant inclus en vertu de l'alinéa 12(1)x) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure;»

(3) Le paragraphe 20(1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa ll) et par adjonction de ce qui suit :

«nn) l'impôt éventuel payé par le contribuable en vertu de la partie VI pour l'année.»

(4) Le paragraphe (1) s'applique aux années d'imposition commençant après le 23 mai 1985.

(5) Le paragraphe (2) s'applique aux années d'imposition 1985 et suivantes.

(6) Le paragraphe (3) s'applique après le 30 23 mai 1985.

14. (1) Les alinéas 35(1)c) à e) de la même loi sont abrogés et remplacés par ce qui suit :

«c) nonobstant les autres dispositions de 35 la présente loi, aucune somme relative à la réception de l'action ne doit être incluse :

(i) ni dans le calcul du revenu pour l'année de ce particulier ou de cette personne, selon le cas, sous réserve de l'alinéa d),

(ii) ni dans le calcul, à une date quelconque, relativement à ce particulier

Repayments of inducements etc.

Remboursement de paiements incitatifs

Part VI tax

Impôt sur le capital

individual or person, as the case may be;

(d) in the case of an individual or partnership (other than a partnership each member of which is a taxable Canadian corporation), an amount in respect of the receipt of the share equal to the lesser of its fair market value at the time of acquisition and its fair market value at the time of disposition or exchange of the share shall be included in computing his income or the income of the partnership, as the case may be, for the year in which the share is disposed of or exchanged;

(e) notwithstanding subdivision c, in computing the cost to the individual, person or partnership, as the case may be, of the share, no amount shall be included in respect of the disposition of the mining property or the interest therein, as the case may be;

(f) notwithstanding sections 66 and 66.2, in computing the cost to the corporation of the mining property or the interest therein, as the case may be, no amount shall be included in respect of the share; and

(g) for the purpose of paragraph (d), an individual or partnership shall be deemed to have disposed of or exchanged shares that are identical properties in the order in which they were acquired."

(2) Subsection (1) is applicable with respect to shares received after May 22, 1985.

15. (1) All that portion of subsection 37(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"37. (1) Where a taxpayer files with his return of income under this Part for a taxation year a prescribed form containing prescribed information, carried on a business in Canada and made expenditures in respect of scientific research and experimental development in the year, there may be deducted in computing his income for

ou à cette personne, selon le cas, du montant visé au sous-alinéa 66.2(5)b)(v);

d) dans le cas d'un particulier ou d'une société (à l'exclusion d'une société dont chaque membre est une corporation canadienne imposable), une somme relative à la réception de l'action et correspondant au moindre de la juste valeur marchande de l'action à la date de son acquisition ou de la juste valeur marchande de l'action à la date de sa disposition ou de son échange doit être incluse dans le calcul du revenu du particulier ou de la société, selon le cas, pour l'année où soit il est disposé de l'action, soit celle-ci est échangée;

e) par dérogation à la sous-section c, aucune somme relative à la disposition du bien minier ou du droit sur celui-ci, selon le cas, ne doit être incluse dans le calcul du coût de l'action pour le particulier, la personne ou la société, selon le cas;

f) par dérogation à l'article 66 et 66.2, aucune somme relative à l'action ne doit être incluse dans le calcul du coût, pour la corporation, du bien minier ou du droit sur celui-ci, selon le cas;

g) pour l'application de l'alinéa d), un particulier ou une société est réputé disposer d'actions qui sont des biens identiques ou échanger de telles actions dans l'ordre où elles ont été acquises."

(2) Le paragraphe (1) s'applique aux actions reçues après le 22 mai 1985.

15. (1) Le passage du paragraphe 37(1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

"37. (1) Lorsqu'un contribuable produit avec sa déclaration de revenu en vertu de la présente partie pour une année d'imposition un formulaire prescrit contenant les renseignements prescrits et qu'il a exploité une entreprise au Canada et a fait des dépenses pour des recherches scientifiques et du développement expérimental dans

the year the amount, if any, by which the aggregate of"

(2) Subparagraphs 37(7)(c)(i) and (ii) of the said Act are repealed and the following substituted therefor:

"(i) where the references occur in subsection (2), include only

(A) expenditures each of which was an expenditure incurred for and all or substantially all of which was attributable to the prosecution of scientific research and experimental development, and

(B) expenditures of a current nature that were directly attributable, as determined by regulation, to the prosecution of scientific research and experimental development, and

(ii) where the references occur other than in subsection (2), include only

(A) expenditures each of which was an expenditure incurred for and all or substantially all of which was attributable to the prosecution, or to the provision of premises, facilities or equipment for the prosecution, of scientific research and experimental development in Canada, and

(B) expenditures of a current nature that were directly attributable, as determined by regulation, to the prosecution, or to the provision of premises, facilities or equipment for the prosecution, of scientific research and experimental development in Canada; and"

(3) The said Act is further amended by substituting the expression "scientific research and experimental development" for the expression "scientific research", wherever the latter expression occurs therein.

(4) Subsections (1) and (3) are applicable with respect to taxation years ending after May 23, 1985 except that the prescribed form referred to in subsection 37(1) of the said Act, as amended by subsection (1), may

l'année, est déductible dans le calcul de son revenu pour l'année la fraction éventuelle du total»

(2) Les sous-alinéas 37(7)c)(i) et (ii) de la même loi sont abrogés et remplacés par ce qui suit :

«(i) lorsqu'elles figurent au paragraphe (2), se limitent :

(A) aux dépenses dont chacune représente une dépense engagée pour des recherches scientifiques et du développement expérimental et qui y est attribuable en totalité ou presque,

(B) aux dépenses courantes directement attribuables, selon ce qui est prévu par règlement, à des recherches scientifiques et à du développement expérimental,

(ii) lorsqu'elles figurent ailleurs qu'au paragraphe (2), se limitent :

(A) aux dépenses dont chacune représente une dépense engagée pour des recherches scientifiques et du développement expérimental effectués au Canada et qui y est attribuable en totalité ou presque, ou engagée pour la fourniture, à ces fins, de locaux, installations et matériel,

(B) aux dépenses courantes qui sont directement attribuables, selon ce qui est prévu par règlement, à des recherches scientifiques et à du développement expérimental effectués au Canada, ou à la fourniture, à ces fins, de locaux, installations ou matériel;»

(3) L'expression «recherches scientifiques» est remplacée, partout où elle se trouve dans la même loi, par l'expression «recherches scientifiques et développement expérimental» avec les adaptations grammaticales nécessaires.

(4) Les paragraphes (1) et (3) s'appliquent aux années d'imposition se terminant après le 23 mai 1985; toutefois, le formulaire prescrit visé au paragraphe 37(1) de la même loi, modifié par le paragraphe (1), peut être pro-

be filed at any time on or before the day that is 90 days after the day this Act is assented to.

(5) Subsection (2) is applicable with respect to expenditures made in taxation years ending after May 23, 1985.

16. (1) Section 38 of the said Act is amended by adding the word "and" at the end of paragraph (b) thereof and by repealing paragraphs (d) and (e) thereof.

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

17. (1) Paragraph 39(1)(a) of the said Act is amended by adding the word "or" at the end of subparagraph (iii) thereof, by striking out the word "or" at the end of subparagraph (iv) thereof and by repealing subparagraph (v) thereof.

(2) Subparagraph 39(1)(b)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) property described in subparagraph (a)(i), (ii) or (iii); and"

(3) Subparagraphs 39(1)(c)(iii) and (iv) of the said Act are repealed and the following substituted therefor:

"(iii) a share of the capital stock of a small business corporation, or
(iv) a debt owing to the taxpayer by a small business corporation other than, where the taxpayer is a corporation, a debt owed to it by a small business corporation with which it does not deal at arm's length"

(4) Paragraph 39(1)(c) of the said Act is further amended by striking out the word "and" at the end of subparagraph (vi) thereof, by adding the word "and" at the end of subparagraph (vii) thereof and by adding thereto the following subparagraph:

"(viii) the amount determined in respect of the taxpayer under subsection (9) or (10), as the case may be."

duit au plus tard le 90^e jour qui suit la date de sanction de la présente loi.

(5) Le paragraphe (2) s'applique aux dépenses faites au cours des années d'imposition se terminant après le 23 mai 1985.

16. (1) Les alinéas 38*d*) et *e*) de la même loi sont abrogés.

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

17. (1) L'alinéa 39(1)*a*) de la même loi est modifié par adjonction du mot «ou» à la fin du sous-alinéa (iii), par suppression de ce mot à la fin du sous-alinéa (iv) et par abrogation du sous-alinéa (v).

(2) Le sous-alinéa 39(1)*b*)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) qu'un bien visé au sous-alinéa *a*)(i), (ii) ou (iii); et»

(3) Les sous-alinéas 39(1)*c*)(iii) et (iv) de la même loi sont abrogés et remplacés par ce qui suit :

«(iii) une action du capital-actions d'une corporation exploitant une petite entreprise, ou
(iv) une créance du contribuable sur une corporation exploitant une petite entreprise, à l'exclusion d'une créance, si le contribuable est une corporation, sur une corporation exploitant une petite entreprise avec laquelle il a un lien de dépendance.»

(4) L'alinéa 39(1)*c*) de la même loi est modifié par suppression du mot «et» à la fin du sous-alinéa (vi), par adjonction de ce mot à la fin du sous-alinéa (vii) et par adjonction de ce qui suit :

«(viii) du montant calculé à l'égard du contribuable selon le paragraphe (9) ou (10), selon le cas.»

(5) Subsection 39(6) of the said Act is repealed and the following substituted therefor:

“(6) For the purposes of this section, “Canadian security” means a security (other than a prescribed security) that is a share of the capital stock of a corporation resident in Canada, a unit of a mutual fund trust or a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by a person resident in Canada.”

(6) Section 39 of the said Act is further amended by adding thereto the following subsections:

“(9) In computing the business investment loss of a taxpayer who is an individual (other than a trust) for a taxation year from the disposition of a particular property, there shall be deducted an amount equal to the lesser of

(a) the amount that would be the taxpayer's business investment loss for the year from the disposition of that particular property if paragraph (1)(c) were read without reference to subparagraph (viii) thereof, and

(b) the amount, if any, by which

(i) the aggregate of all amounts each of which is twice the amount deducted by the taxpayer under section 110.6 in computing his taxable income for taxation years preceding the year

exceeds

(ii) the aggregate of all amounts each of which is an amount deducted by the taxpayer under paragraph (1)(c) by virtue of subparagraph (viii) thereof in computing his business investment loss

(A) from the disposition of property in taxation years preceding the year, or

(B) from the disposition of property other than the particular property in the year.

(10) In computing the business investment loss of a trust for a taxation year

(5) Le paragraphe 39(6) de la même loi est abrogé et remplacé par ce qui suit :

«(6) Pour l'application du présent article, «titre canadien» s'entend d'un titre (à l'exclusion d'un titre prescrit) qui est une action du capital-actions d'une corporation qui réside au Canada, une unité d'une fiducie de fonds mutuels ou quelque obligation, effet, billet, *mortgage*, hypothèque ou titre semblable émis par une personne qui réside au Canada.»

(6) L'article 39 de la même loi est modifié par adjonction de ce qui suit :

«(9) Le moindre des montants suivants doit être déduit dans le calcul de la perte au titre d'un placement d'entreprise qu'un contribuable qui est un particulier (à l'exception d'une fiducie) subit pour une année d'imposition à la disposition d'un bien donné :

a) le montant qui correspondrait à la perte au titre d'un placement d'entreprise que le contribuable subirait pour l'année à la disposition du bien donné, s'il n'était pas tenu compte du sous-alinéa (1)(c)(viii);

b) l'excédent éventuel

(i) du total des montants dont chacun représente le double du montant que le contribuable a déduit en vertu de l'article 110.6 dans le calcul de son revenu imposable pour les années d'imposition antérieures à l'année

sur

(ii) le total des montants dont chacun représente un montant que le contribuable a déduit selon l'alinéa (1)(c) à cause du sous-alinéa (1)(c)(viii) dans le calcul de la perte au titre d'un placement d'entreprise qu'il a subie

(A) à la disposition de biens au cours des années d'imposition antérieures à l'année, ou

(B) à la disposition d'autres biens que le bien donné dans l'année.

(10) Le moindre des montants suivants doit être déduit dans le calcul de la perte

Definition of
Canadian
security”

Définition de
«titre canadien»

Deduction from
business
investment loss

Déduction dans
le calcul d'une
perte au titre
d'un placement
d'entreprise

Idem

Idem

from the disposition of a particular property, there shall be deducted an amount equal to the lesser of

(a) the amount that would be the trust's business investment loss for the year from the disposition of that particular property if paragraph (1)(c) were read without reference to subparagraph (viii) thereof, and

(b) the amount, if any, by which

(i) the aggregate of all amounts each of which is twice the amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in its return of income for taxation years preceding the year

exceeds

(ii) the aggregate of all amounts each of which is an amount deducted by the trust under paragraph (1)(c) by virtue of subparagraph (viii) thereof in computing its business investment loss

(A) from the disposition of property in taxation years preceding the year, or

(B) from the disposition of property other than the particular property in the year."

(7) Subsections (1) to (6) are applicable to the 1986 and subsequent taxation years.

18. (1) Clause 40(2)(g)(iv)(A) of the said Act is repealed and the following substituted therefor:

"(A) a trust governed by a plan or fund referred to in any of clauses 54(c)(v)(B) to (D) under which he is a beneficiary or immediately after the disposition becomes a beneficiary, or"

(2) All that portion of paragraph 40(2)(i) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(i) where at a particular time a taxpayer has disposed of a share of the capital stock of a corporation that was at any time a prescribed venture capital corporation or a prescribed labour-

au titre d'un placement d'entreprise qu'une fiducie subit pour une année d'imposition à la disposition d'un bien donné :

a) le montant qui correspondrait à la perte au titre d'un placement d'entreprise que la fiducie subirait pour l'année à la disposition du bien donné, s'il n'était pas tenu compte du sous-alinéa (1)c)(viii);

b) l'excédent éventuel

(i) du total des montants dont chacun représente le double du montant que la fiducie a attribué à un bénéficiaire en vertu du paragraphe 104(21.2) dans sa déclaration de revenu pour les années d'imposition antérieures à l'année

sur

(ii) le total des montants dont chacun représente un montant que la fiducie a déduit selon l'alinéa (1)c) à cause du sous-alinéa (1)c)(viii) dans le calcul de la perte au titre d'un placement d'entreprise qu'elle a subie

(A) à la disposition de biens au cours des années d'imposition antérieures à l'année, ou

(B) à la disposition d'autres biens que le bien donné dans l'année.»

(7) Les paragraphes (1) à (6) s'appliquent aux années d'imposition 1986 et suivantes.

18. (1) La division 40(2)(g)(iv)(A) de la même loi est abrogée et remplacée par ce qui suit :

«(A) soit d'une fiducie régie par un régime ou fonds visé à l'une des divisions 54(c)(v)(B) à (D), dont il est bénéficiaire ou le devient immédiatement après la disposition,»

(2) Le passage de l'alinéa 40(2)(i) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«i) la perte qu'un contribuable a subie à la disposition par lui, à une date donnée, d'une action du capital-actions d'une corporation qui a été, à une date quelconque, une corporation à capital de

sponsored venture capital corporation or of a property substituted for such a share, his loss from the disposition thereof shall be deemed to be the amount, if any, by which”

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(3) Subsection 40(2) of the said Act is further amended by adding the word “and” at the end of paragraph (h) thereof, by striking out the word “and” at the end of paragraph (i) thereof and by repealing paragraph (j) thereof.

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(4) Subsection 40(3.1) of the said Act is repealed.

(5) Subsections (1), (3) and (4) are applicable to the 1986 and subsequent taxation years.

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(6) Subsection (2) is applicable to the 1985 and subsequent taxation years.

19. (1) Subsection 47(4) of the said Act is repealed.

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(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

20. (1) Subsections 47.1(1) to (25) of the said Act are repealed.

(2) Subsection 47.1(26) of the said Act is repealed.

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(3) Section 47.1 of the said Act is further amended by adding thereto the following subsections:

“(27) Notwithstanding any other provision of this Act, where paragraph (10)(f) applied in respect of the termination before 1986 of a Plan under which a taxpayer was a participant, any amount that would have been deemed under that paragraph to be a capital loss of the taxpayer from the Plan for the 1986 or a subsequent taxation year shall be deemed to be a capital loss of the taxpayer for the 1986 taxation year from the disposition of property in 1986.

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(28) Where a taxpayer was a participant under a Plan on January 1, 1986, the following rules apply:

(a) each indexed security owned under the Plan by the taxpayer on that date

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risque prescrite ou une corporation à capital de risque prescrite de travailleurs, ou d'un bien substitué à une telle action, est réputée être l'excédent éventuel de»

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(3) Le paragraphe 40(2) de la même loi est modifié par adjonction du mot «et» à la fin de l'alinéa h), par suppression de ce mot à la fin de l'alinéa i) et par abrogation de l'alinéa j).

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(4) Le paragraphe 40(3.1) de la même loi est abrogé.

(5) Les paragraphes (1), (3) et (4) s'appliquent aux années d'imposition 1986 et suivantes.

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(6) Le paragraphe (2) s'applique aux années d'imposition 1985 et suivantes.

19. (1) Le paragraphe 47(4) de la même loi est abrogé.

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

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20. (1) Les paragraphes 47.1(1) à (25) de la même loi sont abrogés.

(2) Le paragraphe 47.1(26) de la même loi est abrogé.

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(3) L'article 47.1 de la même loi est modifié par adjonction de ce qui suit :

«(27) Nonobstant les autres dispositions de la présente loi, lorsque l'alinéa (10)f) s'applique à la résiliation avant 1986 d'un Régime dont un contribuable était participant, tout montant qui serait réputé, selon cet alinéa, être une perte en capital résultant du Régime subie par le contribuable pour l'année d'imposition 1986 ou pour une année d'imposition subséquente est réputé être une perte en capital subie par le contribuable pour l'année d'imposition 1986 à la disposition d'un bien en 1986.

Pertes en capital en 1986

(28) Lorsqu'un contribuable est participant à un Régime le 1^{er} janvier 1986, les règles suivantes s'appliquent :

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Règles transitoires pour 1986

a) chaque titre indexé qui appartient au contribuable dans le cadre du Régime à

shall be deemed to have been disposed of under the Plan on that date for proceeds of disposition determined by the formula

$$A \times \frac{B}{C} \quad 5$$

where

A is the indexing base of the Plan on that date,

B is the fair market value of the security on that date, and

C is the fair market value of all indexed securities owned under the Plan by the taxpayer on that date;

(b) each indexed security deemed under paragraph (a) to have been disposed of under the Plan shall be deemed to have been reacquired outside the Plan by the taxpayer immediately after that date at a cost equal to the amount deemed under paragraph (a) to be the proceeds of the disposition of that security;

(c) each put or call option referred to in clause (4)(a)(iv)(B) or (C) outstanding under the Plan on that date shall be deemed to have been closed out under the Plan on that date at a cost equal to the amount that the taxpayer would have had to pay on that date if he had actually closed out the option on a prescribed stock exchange in Canada on that date;

(d) each put or call option deemed under paragraph (c) to have been closed out shall be deemed to be written outside the Plan immediately after that date for proceeds equal to the amount deemed under paragraph (c) to be the cost at which the option was closed out; and

(e) for greater certainty, the taxpayer's indexed gain or loss, as the case may be, for the 1986 taxation year from the Plan and unindexed gain or loss, as the case may be, for that year from the Plan shall be nil."

cette date est réputé faire l'objet d'une disposition dans le cadre du Régime à cette date pour un produit de disposition calculé selon la formule suivante :

$$A \times \frac{B}{C} \quad 5$$

où

A représente la base d'indexation du Régime à cette date;

B représente la juste valeur marchande du titre à cette date;

C représente la juste valeur marchande de tous les titres indexés appartenant au contribuable dans le cadre du Régime à cette date;

b) chaque titre indexé réputé selon l'alinéa a) faire l'objet d'une disposition est réputé acquis de nouveau par le contribuable hors du cadre du Régime immédiatement après cette date à un coût égal au montant réputé selon l'alinéa a) être le produit de disposition du titre;

c) chaque option de vente ou d'achat visée à la division (4)a)(iv)(B) ou (C) et détenue dans le cadre du Régime à cette date est réputée liquidée dans le cadre du Régime à cette date à un coût égal au montant que le contribuable aurait à payer à cette date s'il liquidait effectivement l'option à une bourse de valeurs prescrite au Canada à cette date;

d) chaque option de vente ou d'achat réputée liquidée selon l'alinéa c) est réputée vendue hors du cadre du Régime immédiatement après cette date pour un produit égal au montant réputé selon l'alinéa c) être le coût auquel elle est liquidée;

e) il est entendu que le gain indexé ou la perte indexée, selon le cas, du contribuable pour l'année d'imposition 1986 qui résultent du Régime sont nuls, de même que le gain non indexé ou la perte non indexée, selon le cas, pour cette même année qui résultent du Régime."

(4) Subsection (1) is applicable after January 1, 1986.

(4) Le paragraphe (1) s'applique après le 1^{er} janvier 1986.

(5) Subsection (2) is applicable to the 1987 and subsequent taxation years.

(5) Le paragraphe (2) s'applique aux années d'imposition 1987 et suivantes.

(6) Subsection (3) is applicable after 1985.

(6) Le paragraphe (3) s'applique après 1985.

21. (1) Paragraph 48(1)(a) of the said Act is repealed and the following substituted therefor:

21. (1) L'alinéa 48(1)a) de la même loi 5 est abrogé et remplacé par ce qui suit :

“(a) any property that would be taxable Canadian property if at no time in the year he had been resident in Canada except where the taxpayer is an individual other than a trust and he has elected in prescribed manner and within a prescribed time to be deemed to have disposed of such property owned by him immediately before the particular time,” 15

«a) qu'un bien qui serait un bien canadien imposable si le contribuable n'avait, à aucun moment de l'année, résidé au Canada, sauf si le contribuable 10 est un particulier — à l'exception d'une fiducie — qui choisit, de la manière prescrite et dans le délai prescrit, d'être réputé avoir disposé d'un tel bien qui lui appartenait immédiatement avant la 15 date donnée,»

(2) All that portion of subsection 48(1) of the said Act following paragraph (c) thereof is repealed and the following substituted therefor:

(2) Le passage du paragraphe 48(1) de la même loi qui suit l'alinéa c) est abrogé et remplacé par ce qui suit :

“that was owned by him immediately 20 before the particular time for proceeds of disposition equal to the fair market value of the property immediately before the particular time and to have reacquired the property immediately after he so ceased to 25 be resident in Canada at a cost equal to that fair market value, except that where the taxpayer has made an election under paragraph (a) or (c), the aggregate of the taxpayer's allowable capital losses for the 30 year from dispositions under this subsection of such of those properties as were not listed personal property of the taxpayer shall be deemed to be the lesser of that aggregate otherwise determined and the 35 aggregate of his taxable capital gains for the year from the dispositions under this subsection of such of those properties as were not listed personal property of the taxpayer.” 40

«qui lui appartenait immédiatement avant 20 la date donnée, pour un produit de disposition égal à la juste valeur marchande du bien immédiatement avant la date donnée et avoir acquis le bien de nouveau immédiatement après avoir ainsi cessé de résider 25 au Canada à un coût égal à cette juste valeur marchande; toutefois, si le contribuable fait le choix prévu à l'alinéa a) ou c), le total des pertes en capital déductibles qu'il a subies pour l'année à la disposition, 30 en vertu du présent paragraphe, de ceux de ces biens qui n'étaient pas des biens personnels désignés du contribuable est réputé le moins élevé de ce total déterminé par ailleurs ou du total de ses gains en capital 35 imposables pour l'année tirés de la disposition, en vertu du présent paragraphe, de ceux de ces biens qui n'étaient pas des biens personnels désignés du contribuable.»

(3) Subsection 48(1.1) of the said Act is repealed.

(3) Le paragraphe 48(1.1) de la même loi 40 est abrogé.

(4) Paragraph 48(3)(a) of the said Act is repealed and the following substituted therefor:

(4) L'alinéa 48(3)a) de la même loi est 45 abrogé et remplacé par ce qui suit :

“(a) property that would be taxable Canadian property if he had disposed of it immediately before the particular time, or”

(5) Subsections (1), (2) and (4) are applicable to the 1985 and subsequent taxation years except that for the 1985 taxation year paragraph 48(1)(a) of the said Act, as enacted by subsection (1), shall be read as follows:

“(a) any property that is an indexed security or that would be taxable Canadian property if at no time in the year he had been resident in Canada except where the taxpayer is an individual other than a trust and he has elected in prescribed manner and within a prescribed time to be deemed to have disposed of such property owned by him immediately before the particular time,”

(6) Subsection (3) is applicable to the 1986 and subsequent taxation years.

22. (1) All that portion of subsection 49(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

“49. (1) Subject to subsections (2), (3) and (3.1), for the purpose of this subdivision, the granting of an option, other than”

(2) Subsection 49(1) of the said Act is further amended by adding the word “or” at the end of paragraph (a) thereof, by striking out the word “or” at the end of paragraph (b) thereof and by repealing paragraph (c) thereof.

(3) Subsection 49(3) of the said Act is repealed and the following substituted therefor:

“(3) Where an option to acquire property is exercised so that property is disposed of by a taxpayer (in this subsection referred to as the “vendor”) or so that property is acquired by another taxpayer (in this subsection referred to as the “purchaser”), for the purpose of computing the income of each such taxpayer (other than a vendor who is an individual) the granting

«a) qu'un bien qui serait un bien canadien imposable si le contribuable en avait disposé immédiatement avant la date donnée, ou»

5 (5) Les paragraphes (1), (2) et (4) s'appliquent aux années d'imposition 1985 et suivantes; toutefois, pour l'année d'imposition 1985, l'alinéa 48(1)a) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit : 10

«a) qu'un bien qui est un titre indexé ou qui serait un bien canadien imposable si le contribuable n'avait, à aucun moment de l'année, résidé au Canada, sauf si le contribuable est un particulier — à l'exception d'une fiducie — qui choisit, de la manière prescrite et dans le délai prescrit, d'être réputé avoir disposé d'un tel bien qui lui appartenait immédiatement avant la date donnée,» 15 20

(6) Le paragraphe (3) s'applique aux années d'imposition 1986 et suivantes.

22. (1) Le passage du paragraphe 49(1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit : 25

«49. (1) Sous réserve des paragraphes (2), (3) et (3.1) et pour l'application de la présente sous-section, l'octroi d'une option autre que»

(2) Le paragraphe 49(1) de la même loi 30 est modifié par adjonction du mot «ou» à la fin de l'alinéa a), par suppression de ce mot à la fin de l'alinéa b) et par abrogation de l'alinéa c).

(3) Le paragraphe 49(3) de la même loi 35 est abrogé et remplacé par ce qui suit :

«(3) Lorsqu'une option portant sur l'acquisition d'un bien est levée, de sorte qu'un contribuable — appelé «vendeur» au présent paragraphe — dispose d'un bien ou qu'un autre contribuable — appelé «acheteur» au présent paragraphe — acquiert un bien, aux fins du calcul du revenu de chacun de ces contribuables (à l'exclusion d'un vendeur qui est un particulier), l'oc- 45

Granting of options

Octroi d'options

Where option to acquire exercised

Levée d'une option d'achat

of the option and the exercise thereof shall be deemed not to be dispositions of property and there shall be included

(a) in computing the vendor's proceeds of disposition of the property, the consideration received by him for the option; and

(b) in computing the cost to the purchaser of the property, the adjusted cost base to him of the option.

Where option
to dispose
exercised

(3.1) Where an option to dispose of property is exercised so that property is disposed of by a taxpayer (in this subsection referred to as the "vendor") or so that property is acquired by another taxpayer (in this subsection referred to as the "purchaser"), for the purpose of computing the income of each such taxpayer the granting of the option and the exercise thereof shall be deemed not to be dispositions of property and there shall be deducted

(a) in computing the vendor's proceeds of disposition of the property, the adjusted cost base to him of the option; and

(b) in computing the cost to the purchaser of the property, the consideration received by him for the option."

(4) Paragraph 49(4)(a) of the said Act is repealed and the following substituted therefor:

"(a) an option (other than an option granted by an individual to acquire property) granted by a taxpayer in a taxation year (in this subsection referred to as the "initial year") is exercised in a subsequent taxation year (in this subsection referred to as the "subsequent year"),"

(5) Paragraph 49(5)(b) of the said Act is repealed and the following substituted therefor:

"(b) for the purposes of subsections (2), (3), (3.1) and (4) and clause 54(c)(ii)(D), the original option and each extension or renewal thereof shall be deemed to be the same option; and"

troi de l'option et sa levée sont réputés ne pas être des dispositions de bien et :

a) d'une part, la contrepartie que le vendeur reçoit pour l'option est incluse dans le calcul du produit de disposition du bien pour lui;

b) d'autre part, le prix de base rajusté de l'option pour l'acheteur est inclus dans le calcul du coût du bien pour lui.

(3.1) Lorsqu'une option portant sur la disposition d'un bien est levée, de sorte qu'un contribuable — appelé «vendeur» au présent paragraphe — dispose de ce bien ou qu'un autre contribuable — appelé «acheteur» au présent paragraphe — acquiert, aux fins du calcul du revenu de chacun de ces contribuables, l'octroi de l'option et sa levée sont réputés ne pas être des dispositions de bien et :

a) d'une part, le prix de base rajusté de l'option pour le vendeur est déduit dans le calcul du produit de disposition du bien pour lui;

b) d'autre part, la contrepartie que l'acheteur reçoit pour l'option est déduite dans le calcul du coût du bien pour lui."

(4) L'alinéa 49(4)a) de la même loi est abrogé et remplacé par ce qui suit :

«a) une option (à l'exclusion d'une option consentie par un particulier pour acquérir un bien) consentie par un contribuable dans une année d'imposition — appelée «année initiale» au présent paragraphe — est levée dans une année d'imposition postérieure — appelée «année postérieure» au présent paragraphe — ,»

(5) L'alinéa 49(5)b) de la même loi est abrogé et remplacé par ce qui suit :

«b) pour l'application des paragraphes (2), (3), (3.1) et (4) et de la division 54(c)(ii)(D), l'option initiale et chacun de ses renouvellements ou prolongations

Levée d'une
option de vente

(6) Subsections (1), (3), (4) and (5) are applicable with respect to dispositions of property under options granted, extended or renewed after November 21, 1985 except that with respect to the 1985 taxation year

(a) paragraphs 49(3)(a) and (b) of the said Act, as enacted by subsection (3), shall be read as follows:

“(a) in computing the vendor’s proceeds of disposition of the property (other than a property that is an indexed security), the consideration received by him for the option; and

(b) in computing the cost to the purchaser of the property (other than a property acquired by him under an indexed security investment plan), the adjusted cost base to him of the option.”;

and

(b) paragraphs 49(3.1)(a) and (b) of the said Act, as enacted by subsection (3), shall be read as follows:

“(a) in computing the vendor’s proceeds of disposition of the property (other than a property that is an indexed security), the adjusted cost base to him of the option; and

(b) in computing the cost to the purchaser of the property (other than property acquired by him under an indexed security investment plan), the consideration received by him for the option.”

(7) Subsection (2) is applicable to the 1986 and subsequent taxation years.

23. (1) Paragraph 50(1)(b) of the said Act is repealed and the following substituted therefor:

“(b) a share (other than a share received by a taxpayer as consideration in respect of the disposition of personal-use property) of the capital stock of a corporation is owned by the taxpayer at the end of a taxation year and

sont réputés constituer une seule et même option; et»

(6) Les paragraphes (1), (3), (4) et (5) s’appliquent aux dispositions de biens qui résultent d’options consenties, prolongées ou renouvelées après le 21 novembre 1985; toutefois, pour l’année d’imposition 1985 :

a) les alinéas 49(3)a) et b) de la même loi, édictés par le paragraphe (3), sont remplacés par ce qui suit :

«a) d’une part, la contrepartie que le vendeur reçoit pour l’option est incluse dans le calcul du produit de disposition du bien (à l’exclusion d’un titre indexé) pour lui;

b) d’autre part, le prix de base rajusté de l’option pour l’acheteur est inclus dans le calcul du coût du bien (à l’exclusion d’un bien que l’acheteur acquiert dans le cadre d’un régime de placements en titres indexés) pour lui.»

b) les alinéas 49(3.1)a) et b) de la même loi, édictés par le paragraphe (3), sont remplacés par ce qui suit :

«a) d’une part, le prix de base rajusté de l’option pour le vendeur est déduit dans le calcul du produit de disposition du bien (à l’exclusion d’un titre indexé) pour lui;

b) d’autre part, la contrepartie que l’acheteur reçoit pour l’option est déduite dans le calcul du coût du bien (à l’exclusion d’un bien que l’acheteur acquiert dans le cadre d’un régime de placements en titres indexés) pour lui.»

(7) Le paragraphe (2) s’applique aux années d’imposition 1986 et suivantes.

23. (1) L’alinéa 50(1)b) de la même loi est abrogé et remplacé par ce qui suit :

«b) lorsqu’une action du capital-actions d’une corporation (autre qu’une action reçue par un contribuable en contrepartie de la disposition d’un bien à usage personnel) appartient au contribuable à la fin d’une année d’imposition et que

(i) the corporation has during the year become a bankrupt (within the meaning of subsection 128(3)), or

(ii) the corporation is a corporation referred to in section 6 of the *Wind-up Act* that is insolvent (within the meaning of that Act) and in respect of which a winding-up order under that Act has been made in the year,”

(i) ou bien la corporation est devenue au cours de l'année un failli au sens du paragraphe 128(3),

(ii) ou bien elle est une corporation visée à l'article 6 de la *Loi sur les liquidations*, insolvable au sens de cette loi et au sujet de laquelle une ordonnance de mise en liquidation en vertu de cette loi a été rendue dans l'année.»

(2) Section 50 of the said Act is further amended by adding thereto the following subsection:

(2) L'article 50 de la même loi est modifié par adjonction de ce qui suit :

Disposal of
R.H.O.S.P.
properties

“(3) Each trust that was at the end of 1985 governed by a registered home ownership savings plan (within the meaning assigned by paragraph 146.2(1)(h) as it read in its application to the 1985 taxation year) shall be deemed to have disposed, immediately before 1986, of each property it holds at that time for proceeds of disposition equal to the fair market value of the property at that time and to have reacquired it immediately after 1985 at a cost equal to that fair market value.”

«(3) Chaque fiducie régie à la fin de 1985 par un régime enregistré d'épargne-logement (au sens de l'alinéa 146.2(1)h) applicable à l'année d'imposition 1985) est réputée disposer, immédiatement avant 1986, de chaque bien qu'elle détient à ce moment pour un produit de disposition égal à la juste valeur marchande du bien à ce moment et l'acquérir de nouveau, immédiatement après 1985, à un coût égal à cette juste valeur marchande.»

Disposition des
biens d'un
régime
enregistré
d'épargne-logement

(3) Subsection (1) is applicable to the 1985 and subsequent taxation years.

(3) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

24. (1) Subsection 51(1) of the said Act is amended by striking out the word “and” at the end of paragraph (a) thereof, by adding the word “and” at the end of paragraph (b) thereof and by adding thereto the following paragraph:

24. (1) Le paragraphe 51(1) de la même loi est modifié par insertion, après l'alinéa b), de ce qui suit :

“(c) for the purposes of sections 74.4 and 74.5, the exchange shall be deemed to be a transfer of the convertible property by the taxpayer to the corporation.”

«c) l'échange est réputé être un transfert du bien convertible par le contribuable à la corporation, pour l'application des articles 74.4 et 74.5.»

(2) Subsection (1) is applicable to exchanges of property occurring after November 21, 1985.

(2) Le paragraphe (1) s'applique aux échanges de biens qui ont lieu après le 21 novembre 1985.

25. (1) Subsection 52(3) of the said Act is repealed and the following substituted therefor:

25. (1) Le paragraphe 52(3) de la même loi est abrogé et remplacé par ce qui suit :

“(3) Where a shareholder of a corporation has, after 1971, received a stock dividend in respect of a share owned by him of the capital stock of the corporation, he shall be deemed to have acquired the share

«(3) Un actionnaire d'une corporation qui a reçu, après 1971, un dividende en actions sur une action qui lui appartient du capital-actions de cette corporation est réputé avoir acquis l'action ou les actions

Coût d'un
dividende en
actions

Cost of stock
dividend

or shares received by him as a stock dividend at a cost to him equal to the aggregate of

(a) the amount of the stock dividend, and

(b) where an amount is included in the shareholder's income in respect of the stock dividend under subsection 15(1.1), the amount so included."

(2) Subsection (1) is applicable with respect to stock dividends received after May 23, 1985 other than such stock dividends that were declared by the corporation before May 24, 1985 and paid before 1986.

26. (1) Subparagraph 53(2)(a)(iii) of the said Act is repealed and the following substituted therefor:

"(iii) any amount required to be deducted before that time under section 84.1 as it applied before May 23, 1985 in computing the adjusted cost base to him of the share, and"

(2) Clause 53(2)(k)(i)(C) of the said Act is repealed and the following substituted therefor:

"(C) the amount of any prescribed assistance received by the taxpayer that has been provided in respect of, or for the acquisition of, shares of the capital stock of a prescribed venture capital corporation or a prescribed labour-sponsored venture capital corporation, or"

(3) Paragraph 53(2)(p) of the said Act is repealed and the following substituted therefor:

"(p) where the property is a debt owing to the taxpayer by a corporation, any amount required to be deducted before that time under section 84.1 as it applied before May 23, 1985 or subsection 84.2(2) in computing the adjusted cost base to him of the debt;"

(4) Paragraph 53(2)(r) of the said Act is repealed.

qu'il a reçues à titre de dividende en actions à un coût, pour lui, égal au total :

a) du montant du dividende en actions; et

b) lorsqu'un montant est inclus, en vertu du paragraphe 15(1.1), dans le revenu de l'actionnaire au titre du dividende en actions, ce montant.»

(2) Le paragraphe (1) s'applique aux dividendes en actions reçus après le 23 mai 1985, à l'exclusion des dividendes en actions que la corporation a déclarés avant le 24 mai 1985 et versés avant 1986.

26. (1) Le sous-alinéa 53(2)a)(iii) de la même loi est abrogé et remplacé par ce qui suit :

«(iii) toute somme à déduire avant cette date, en vertu de l'article 84.1 tel qu'appliqué avant le 23 mai 1985, dans le calcul du prix de base rajusté de l'action pour lui»

(2) La division 53(2)k)(i)(C) de la même loi est abrogée et remplacée par ce qui suit :

«(C) le montant d'une aide prescrite reçue par le contribuable qui a été fournie au titre d'actions du capital-actions d'une corporation à capital de risque prescrite ou d'une corporation à capital de risque prescrite de travailleurs, ou en vue de l'acquisition de telles actions, ou»

(3) L'alinéa 53(2)p) de la même loi est abrogé et remplacé par ce qui suit :

«p) lorsque le bien est une créance du contribuable sur une corporation, toute somme à déduire avant cette date, en vertu de l'article 84.1 tel qu'appliqué avant le 23 mai 1985 ou en vertu du paragraphe 84.2(2), dans le calcul du prix de base rajusté de la créance pour lui;»

(4) Le paragraphe 53(2) de la même loi est modifié par suppression du mot «et» à la

fin de l'alinéa *q*) et par abrogation de l'alinéa *r*).

(5) Subsection 53(2) of the said Act is further amended by adding thereto the following paragraph:

(5) Le paragraphe 53(2) de la même loi est modifié par adjonction de ce qui suit :

“(s) the amount, if any, by which
(i) the amount elected by the taxpayer before that time under subsection (2.1)
exceeds
(ii) any repayment before that time by the taxpayer of an amount received by him as described in subsection (2.1) that may reasonably be considered to relate to the amount elected where the repayment is made pursuant to a legal obligation to repay all or any part of the amount so received.”

«s) l'excédent éventuel
(i) du montant choisi par le contribuable avant cette date en vertu du paragraphe (2.1)
sur
(ii) tout remboursement avant cette date par le contribuable d'un montant, visé au paragraphe (2.1), reçu par le contribuable, qu'il est raisonnable de considérer comme rattaché au montant choisi, si ce remboursement est fait conformément à une obligation légale de rembourser tout ou partie du montant ainsi reçu.»

(6) Section 53 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

(6) L'article 53 de la même loi est modifié par insertion, après le paragraphe (2), de ce qui suit :

“(2.1) For the purposes of paragraph (2)(s), where a taxpayer has in a taxation year received an amount that would, but for this subsection, be included in his income under paragraph 12(1)(x) in respect of the cost of a property acquired by him in the year, in the three taxation years immediately preceding the year or in the taxation year immediately following the year, he may elect under this subsection on or before the date on or before which he is required to file his return of income under this Part for the year or, where the property is acquired in the immediately following year, for that following year, to reduce the cost of the property by such amount as he may specify, not exceeding the least of

- (a) the adjusted cost base, determined without reference to paragraph (2)(s), at the time the property was acquired,
- (b) the amount so received by the taxpayer, and
- (c) where the taxpayer has disposed of the property before the year, nil.”

“(2.1) Pour l'application de l'alinéa (2)s), un contribuable qui, dans une année d'imposition, a reçu un montant qui, n'eût été le présent paragraphe, serait inclus dans son revenu en vertu de l'alinéa 12(1)x) à l'égard du coût d'un bien qu'il a acquis dans l'année, dans les trois années d'imposition précédant l'année dans l'année d'imposition suivant l'année, peut choisir en vertu du présent paragraphe, au plus tard à la date où il est tenu de produire sa déclaration de revenu en vertu de la présente partie pour l'année ou, si le bien est acquis dans l'année d'imposition suivante, pour cette année suivante, de réduire le coût du bien du montant qu'il indique ne dépassant pas le moindre des montants suivants :

- a) le prix de base rajusté, calculé sans tenir compte de l'alinéa (2)s), à la date d'acquisition du bien;
- b) le montant ainsi reçu par le contribuable;
- c) zéro, si le contribuable a disposé du bien avant l'année.»

(7) Subsections (1), (2), (3), (5) and (6) are applicable to the 1985 and subsequent taxation years.

(8) Subsection (4) is applicable with respect to dividends paid after May 23, 1985.

27. (1) Clauses 54(c)(v)(C) to (E) of the said Act are repealed and the following substituted therefor:

“(C) an employees profit sharing plan, or
(D) a registered retirement income fund”

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(2) Paragraph 54(h) of the said Act is amended by adding the word “and” at the end of subparagraph (viii) thereof, by striking out the word “and” at the end of subparagraph (ix) thereof and by repealing subparagraph (ix.1) thereof.

(3) Subparagraph 54(h)(xi) of the said Act is repealed and the following substituted therefor:

“(xi) any amount that would otherwise be proceeds of disposition of property of a taxpayer to the extent that such amount is deemed by subsection 84.1(1) or 212.1(1) to be a dividend paid to the taxpayer; and”

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(4) Paragraph 54(i) of the said Act is amended by adding the word “or” at the end of subparagraph (iv) thereof, by striking out the word “or” at the end of subparagraph (v) thereof and by repealing subparagraph (vi) thereof.

(5) Subsection (1) is applicable to transfers made after 1985.

(6) Subsections (2) and (4) are applicable to the 1986 and subsequent taxation years.

(7) Subsection (3) is applicable with respect to dispositions made after May 22, 1985.

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28. (1) Subparagraph 56(1)(n)(i) of the said Act is repealed and the following substituted therefor:

“(i) the aggregate of all amounts (other than amounts described in paragraph (q), amounts received in

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(7) Les paragraphes (1), (2), (3), (5) et (6) s'appliquent aux années d'imposition 1985 et suivantes.

(8) Le paragraphe (4) s'applique aux dividendes versés après le 23 mai 1985.

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27. (1) Les divisions 54c)(v)(C) à (E) de la même loi sont abrogées et remplacées par ce qui suit :

«(C) un régime de participation des employés aux bénéfices, ou
(D) un fonds enregistré de revenu de retraite»

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(2) L'alinéa 54h) de la même loi est modifié par suppression du mot «et» à la fin du sous-alinéa (ix) et par abrogation du sous-alinéa (ix.1).

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(3) Le sous-alinéa 54h)(xi) de la même loi est abrogé et remplacé par ce qui suit :

«(xi) toute somme qui serait par ailleurs le produit de disposition d'un bien d'un contribuable dans la mesure où cette somme est réputée selon le paragraphe 84.1(1) ou 212.1(1) être un dividende versé au contribuable;»

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(4) L'alinéa 54i) de la même loi est modifié par adjonction du mot «ou» à la fin du sous-alinéa (iv), par suppression de ce mot à la fin du sous-alinéa (v) et par abrogation du sous-alinéa (vi).

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(5) Le paragraphe (1) s'applique aux transferts effectués après 1985.

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(6) Les paragraphes (2) et (4) s'appliquent aux années d'imposition 1986 et suivantes.

(7) Le paragraphe (3) s'applique aux dispositions effectuées après le 22 mai 1985.

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28. (1) Le sous-alinéa 56(1)n)(i) de la même loi est abrogé et remplacé par ce qui suit :

«(i) du total des sommes (à l'exclusion des sommes visées à l'alinéa q), des sommes reçues dans le cours

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the course of business, and amounts received in respect of, in the course of or by virtue of an office or employment) received by the taxpayer in the year, each of which is an amount received by him as or on account of a scholarship, fellowship or bursary, or a prize for achievement in a field of endeavour ordinarily carried on by the taxpayer,"

(2) Paragraph 56(1)(r) of the said Act is repealed.

(3) Subsection (1) is applicable with respect to amounts received after May 23, 1985.

(4) Subsection (2) is applicable to the 1986 and subsequent taxation years.

29. (1) Paragraph 60(r) of the said Act is repealed and the following substituted therefor:

"(r) where an amount has been included in computing the income of the taxpayer by virtue of subsection 146.2(6) (as it read in its application to the 1985 taxation year) for any of his three immediately preceding taxation years, the taxpayer may deduct the lesser of

(i) the amount that had been so included in computing his income, and

(ii) the aggregate of all amounts used by him to acquire in the year his owner-occupied home (within the meaning assigned by paragraph 146.2(1)(f) as it read in its application to the 1985 taxation year),

except that no amount may be deducted by him for the year under this paragraph if an amount has been deducted

(iii) under subsection 146.2(6.1) (as it read in its application to taxation years before 1986) in computing his income for any taxation year ending before 1986, or

(iv) under this paragraph for any preceding taxation year ending after 1985; and"

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

d'une entreprise et des sommes reçues au titre, dans l'occupation ou en vertu d'une charge ou d'un emploi) que le contribuable reçoit dans l'année à titre ou au titre de bourse d'études, de bourse de perfectionnement (*fellowship*) ou de récompense couronnant une oeuvre remarquable réalisé dans son domaine d'activité habituel,"

(2) L'alinéa 56(1)r) de la même loi est abrogé.

(3) Le paragraphe (1) s'applique aux sommes reçues après le 23 mai 1985.

(4) Le paragraphe (2) s'applique aux années d'imposition 1986 et suivantes.

29. (1) L'alinéa 60r) de la même loi est abrogé et remplacé par ce qui suit :

"(r) le contribuable qui inclut un montant en vertu du paragraphe 146.2(6) (applicable à l'année d'imposition 1985) dans le calcul de son revenu pour une de ses trois années d'imposition précédentes, peut déduire le moindre :

(i) du montant ainsi inclus dans le calcul de son revenu,

(ii) du total des montants qu'il affecte à l'achat dans l'année de son logement de type propriétaire-occupant (au sens de l'alinéa 146.2(1)f) applicable à l'année d'imposition 1985);

toutefois, le contribuable ne peut déduire aucun montant pour l'année en vertu du présent paragraphe si un montant a été déduit :

(iii) soit en vertu du paragraphe 146.2(6.1) (applicable aux années d'imposition antérieures à 1986) dans le calcul de son revenu pour une année d'imposition se terminant avant 1986,

(iv) soit en vertu du présent paragraphe pour une année d'imposition antérieure se terminant après 1985;"

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

Amounts included under subsection 146.2(6)

Montant inclus en vertu du paragraphe 146.2(6)

30. (1) Subsection 66(11.1) of the said Act is amended by striking out the word "and" at the end of paragraph (e) thereof, by adding the word "and" at the end of paragraph (f) thereof and by adding thereto the following paragraph:

"(g) where another corporation (in this paragraph referred to as the "subsidiary") was at that time a subsidiary wholly-owned corporation (within the meaning assigned by subsection 87(1.4)) of the corporation (in this paragraph referred to as the "parent"), if both corporations agree to have this paragraph apply to them in respect of a taxation year of the subsidiary ending after that time and notify the Minister in writing of the agreement in the return of income under this Part of the subsidiary for that year, the subsidiary may designate in favour of the parent, in respect of that year, an amount equal to such portion of the amount that would be its income for the year if no deductions were allowed under sections 65, 66, 66.1, 66.2 and 66.4 and section 29 of the *Income Tax Application Rules, 1971*, as may reasonably be regarded as being attributable to

(i) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in respect of which the subsidiary had, immediately before that time, an interest or right to take or remove petroleum or natural gas or a right to take or remove minerals, and

(ii) the disposition of any Canadian resource property or foreign resource property, owned by the subsidiary immediately before that time,

to the extent that such portion of the amount is not designated under this paragraph in favour of any other taxpayer, and the amount so designated shall be deemed, for the purposes of determining the amount under paragraphs (6)(b), 66.1(4)(b), 66.2(3)(b) and 66.4(3)(b),

30. (1) Le paragraphe 66(11.1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa e) et par adjonction de ce qui suit :

«g) lorsqu'une autre corporation (appelée «filiale» au présent alinéa) était, à cette date, une filiale possédée en propriété exclusive (au sens du paragraphe 87(1.4)) de la corporation (appelée «corporation mère» au présent alinéa) et que les deux corporations conviennent de se prévaloir du présent alinéa pour une année d'imposition de la filiale se terminant après cette date et en informent le ministre par avis écrit dans la déclaration de revenu de la filiale en vertu de la présente partie pour cette année, la filiale peut attribuer à la corporation mère, pour cette année, un montant égal à la partie du montant qui correspondrait à son revenu pour l'année si aucune déduction n'était admise en vertu des articles 65, 66, 66.1, 66.2 et 66.4 et de l'article 29 des *Règles de 1971 concernant l'application de l'im-pôt sur le revenu*, qu'il est raisonnable de considérer comme attribuable :

(i) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz, ou à la production de minéraux provenant de mines, situés sur un bien dans lequel la filiale avait, immédiatement avant cette date, un droit afférent à l'extraction ou à l'enlèvement du pétrole, du gaz naturel ou des minéraux, et

(ii) à la disposition d'un avoir minier canadien ou avoir minier étranger appartenant à la filiale immédiatement avant cette date,

dans la mesure où cette partie du montant n'est pas attribuée à un autre contribuable en vertu du présent alinéa; le montant ainsi attribué est réputé, aux fins du calcul du montant en vertu des alinéas (6)b), 66.1(4)b), 66.2(3)b) et 66.4(3)b) :

(iii) to be the income from the sources described in subparagraph (i) or (ii), as the case may be, of the parent for its taxation year in which that taxation year of the subsidiary ends, and
(iv) not to be the income from the sources described in subparagraph (i) or (ii), as the case may be, of the subsidiary for that year.”

(2) Paragraph 66(15)(g.1) of the said Act is repealed.

(3) Subsection (1) is applicable to the 1985 and subsequent taxation years except that a notice referred to in paragraph 66(11.1)(g) of the said Act, as enacted by subsection (1), of an agreement between a subsidiary and a parent to have that paragraph apply to them in respect of a taxation year of the subsidiary that ended after 1984 and before the day this Act is assented to, that is filed in writing with the Minister of National Revenue on or before the day that is 90 days after the day this Act is assented to shall be deemed to have been given in the return under the said Act of income of the subsidiary for that taxation year.

(4) Subsection (2) is applicable to taxation years ending after March, 1985.

31. (1) Paragraph 66.1(6)(a) of the said Act is amended by adding thereto, immediately after subparagraph (i) thereof, the following subparagraph:

“(i.1) any expense (other than an expense incurred in drilling or completing an oil or gas well or in building a temporary access road to, or preparing a site in respect of, any such well) incurred by him after March, 1985 for the purpose of bringing a natural accumulation of petroleum or natural gas (other than a mineral resource) in Canada into production and incurred prior to the commencement of the production (other than the production from an oil or gas well) in reasonable commercial

(iii) être le revenu de la corporation mère tiré des sources visées au sous-alinéa (i) ou (ii), selon le cas, pour l'année d'imposition de celle-ci au cours de laquelle l'année d'imposition de la filiale se termine, et
(iv) ne pas être le revenu de la filiale tiré des sources visées au sous-alinéa (i) ou (ii), selon le cas, pour cette année.»

(2) L'alinéa 66(15)g.1) de la même loi est abrogé.

(3) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes; toutefois, l'avis, visé à l'alinéa 66(11.1)g) de la même loi, édicté par le paragraphe (1), d'un accord entre une filiale et une corporation mère pour se prévaloir de cet alinéa pour une année d'imposition de la filiale qui se termine après 1984 et avant la date de sanction de la présente loi, est réputé, s'il est produit par écrit auprès du ministre du Revenu national au plus tard le 90^e jour qui suit la date de sanction de la présente loi, avoir été donné dans la déclaration, en vertu de la même loi, du revenu de la filiale pour cette année d'imposition.

(4) Le paragraphe (2) s'applique aux années d'imposition se terminant après mars 1985.

31. (1) L'alinéa 66.1(6)a) de la même loi est modifié par insertion, après le sous-alinéa (i), de ce qui suit :

«(i.1) une dépense (à l'exclusion d'une dépense engagée pour le forage ou l'achèvement d'un puits de pétrole ou de gaz ou pour la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement en vue d'un tel puits) engagée par le contribuable d'une part, après mars 1985 en vue d'amener un gisement naturel de pétrole ou de gaz naturel (à l'exclusion d'une ressource minérale) situé au Canada au stade de la production et d'autre part, avant le début de la production en quantités

quantities from such accumulation, including (A) clearing, removing overburden and stripping, and (B) sinking a shaft or constructing an adit or other underground entry,"	5	commerciales raisonnables (autrement que d'un puits de pétrole ou de gaz) provenant d'un tel gisement, y compris : (A) les frais de défrichage et d'enlèvement du terrain de couverture, (B) les frais de fonçage d'un puits et de construction d'une galerie ou d'une autre entrée souterraine,»	5
(2) The said Act is further amended in the manner and to the extent set out in the schedule.	10	(2) La même loi est modifiée conformément à l'annexe.	10
(3) Subsection (1) is applicable with respect to expenses incurred after March, 1985.		(3) Le paragraphe (1) s'applique aux dépenses engagées après mars 1985.	
(4) Subsection (2) is applicable to taxation years ending after March, 1985.	15	(4) Le paragraphe (2) s'applique aux années d'imposition se terminant après mars 1985.	15
32. (1) Section 66.3 of the said Act is renumbered as subsection 66.3(1).		32. (1) L'article 66.3 de la même loi devient le paragraphe 66.3(1).	
(2) Section 66.3 of the said Act is further amended by adding thereto the following subsection:	20	(2) L'article 66.3 de la même loi est modifié par adjonction de ce qui suit :	20
"(2) Where, at any time after May 23, 1985, a corporation has issued a share of its capital stock under circumstances described in subparagraph 66.1(6)(a)(v), 66.2(5)(a)(v) or 66.4(5)(a)(iii) or has issued a share of its capital stock on the exercise of an interest in or right to such a share granted under circumstances described in any of those subparagraphs, in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of the capital stock of the corporation that included that share (a) there shall be deducted the amount, if any, by which (i) the increase as a result of the issue of the share in the paid-up capital, determined without reference to this subsection as it applies to the share, in respect of all of the shares of that class exceeds (ii) the amount, if any, by which (A) the total amount of consideration received by the corporation in	25 30 35 40 45	«(2) Lorsque, à une date quelconque postérieure au 23 mai 1985, une corporation émet une action de son capital-actions dans une situation visée au sous-alinéa 66.1(6)a)(v), 66.2(5)a)(v) ou 66.4(5)a)(iii) ou émet une action de son capital-actions sur exercice d'un droit afférent à cette action consenti dans une situation visée à l'un de ces sous-alinéas, dans le calcul, à une date donnée postérieure à cette date quelconque, du capital versé au titre de la catégorie d'actions du capital-actions de cette corporation qui comprend cette action : a) d'une part, il doit être déduit l'excédent éventuel (i) du montant correspondant à l'augmentation — conséquence de l'émission de l'action — du capital versé au titre de toutes les actions de cette catégorie, calculée sans appliquer le présent paragraphe à l'action sur (ii) l'excédent éventuel	25 30 35 40

respect of the share, including any consideration for the interest or right in respect of the share exceeds

(B) 50% of the amount of the expense referred to in subparagraph 66.1(6)(a)(v), 66.2(5)(a)(v) or 66.4(5)(a)(iii) that was incurred by a taxpayer who acquired the share or the interest or right on the exercise of which the share was issued, as the case may be, pursuant to an agreement with the corporation under which the taxpayer incurred the expense solely as consideration for the share, interest or right, as the case may be; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the aggregate of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the corporation after May 23, 1985 and before the particular time exceeds

(B) the aggregate that would be determined under clause (A) if this Act were read without reference to paragraph (a), and

(ii) the aggregate of all amounts each of which is an amount required by paragraph (a) to be deducted in computing the paid-up capital in respect of that class of shares after May 22, 1985 and before the particular time."

(3) Subsections (1) and (2) are applicable after May 23, 1985.

33. (1) All that portion of subsection 70(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"(2) Where a taxpayer who has died had at the time of his death rights or things (other than any capital property or any amount included in computing his income by virtue of subsection (1)), the amount of which when realized or disposed

(A) du montant total que la corporation reçoit en contrepartie de l'action, y compris toute contrepartie du droit afférent à l'action

sur

(B) la moitié du total des frais visés aux sous-alinéas 66.1(6)a)(v), 66.2(5)a)(v) et 66.4(5)a)(iii) engagés par un contribuable qui acquiert, selon le cas, l'action ou le droit sur exercice duquel l'action est émise, conformément à un accord conclu avec la corporation, stipulant que le contribuable n'engage ces frais qu'en contrepartie de l'action ou du droit, selon le cas;

b) d'autre part, il doit être ajouté le moindre :

(i) de l'excédent éventuel

(A) du total des montants dont chacun représente un montant réputé selon le paragraphe 84(3), (4) ou (4.1) être un dividende sur les actions de cette catégorie que la corporation verse après le 23 mai 1985 et avant la date donnée

sur

(B) le total qui serait calculé selon la division (A) s'il n'était pas tenu compte de l'alinéa a),

(ii) du total des montants à déduire selon l'alinéa a) dans le calcul du capital versé au titre de cette catégorie d'actions après le 22 mai 1985 et avant la date donnée."

(3) Les paragraphes (1) et (2) s'appliquent après le 23 mai 1985.

33. (1) Le passage du paragraphe 70(2) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

"(2) Lorsqu'un contribuable décédé avait, lors de son décès, des droits ou biens (à l'exclusion des biens en immobilisation et des sommes incluses dans le calcul de son revenu en vertu du paragraphe (1)) dont le montant à la réalisation ou disposi-

Montants à recevoir

of would have been included in computing his income, the value thereof at the time of death shall be included in computing the taxpayer's income for the taxation year in which he died, unless his legal representative has, not later than the day that is one year after the date of death of the taxpayer or the day that is 90 days after the mailing of any notice of assessment in respect of the tax of the taxpayer for the 10 year of death, whichever is the later day, elected otherwise, in which case the legal representative shall file a separate return of income for the year under this Part and pay the tax for the year under this Part as if"

(2) Subsection 70(5.4) of the said Act is repealed.

(3) Subsections 70(9.4) and (9.5) of the said Act are repealed.

(4) Subsection 70(9.7) of the said Act is repealed.

(5) Subsection 70(11) of the said Act is repealed.

(6) Subsections (1) and (2) are applicable 25 to the 1986 and subsequent taxation years.

(7) Subsections (3) to (5) are applicable with respect to transfers and dispositions made after 1987 except that the repeal of paragraph 70(11)(c) of the said Act, as 30 enacted by subsection (5), is applicable to the 1985 and subsequent taxation years.

34. (1) Section 71 of the said Act is repealed.

(2) Subsection (1) is applicable to the 35 1986 and subsequent taxation years, but section 71, in its application to the 1985 taxation year, shall be read as follows:

"**71.** Where a taxpayer dies in the 1985 taxation year, the following rules apply: 40

(a) in computing his income for the 1985 taxation year, paragraph 3(e) shall be read

(i) without reference to the words "the least of", and 45

(ii) without reference to subparagraphs (ii) and (iii) thereof; and

tion aurait été inclus dans le calcul de son revenu, la valeur de ces droits ou biens lors du décès doit être incluse dans le calcul de son revenu pour l'année d'imposition de son décès, sauf si son représentant légal 5 choisit, au plus tard le jour qui tombe un an après la date du décès du contribuable ou le 90^e jour suivant la mise à la poste d'un avis de cotisation concernant l'impôt du contribuable pour l'année de son décès, 10 si ce jour est postérieur, de produire une déclaration de revenu distincte pour l'année en vertu de la présente partie et de payer l'impôt pour l'année en vertu de la 15 présente partie»

(2) Le paragraphe 70(5.4) de la même loi est abrogé.

(3) Les paragraphes 70(9.4) et (9.5) de la 20 même loi sont abrogés.

(4) Le paragraphe 70(9.7) de la même loi 20 est abrogé.

(5) Le paragraphe 70(11) de la même loi est abrogé.

(6) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1986 et suivantes. 25

(7) Les paragraphes (3) à (5) s'appliquent aux transferts et dispositions effectués après 1987; toutefois, l'abrogation de l'alinéa 70(11)c) de la même loi, édicté par le paragraphe (5), s'applique aux années d'imposi- 30 tion 1985 et suivantes.

34. (1) L'article 71 de la même loi est abrogé.

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes; pour 35 son application à l'année d'imposition 1985, l'article 71 est remplacé par ce qui suit :

«**71.** En cas de décès d'un contribuable au cours de l'année d'imposition 1985, les règles suivantes s'appliquent : 40

a) dans le calcul de son revenu pour l'année d'imposition 1985, il n'est tenu compte :

(i) ni de la mention «le moindre des montants suivants» à l'alinéa 3e), 45

(ii) ni des sous-alinéas 3e)(ii) et (iii);

(b) in computing his income for the 1984 taxation year, paragraph 3(e), as it read in its application to the year, shall be read

- (i) without reference to the words 5
“the lesser of”, and
- (ii) without reference to subpara-
graph (ii) thereof.”

35. (1) All that portion of subparagraph 72(2)(b)(ii) of the said Act preceding clause 10 (A) thereof is repealed and the following substituted therefor:

“(ii) for the purpose of computing the transferee’s income for his first taxation year ending after the death 15 of the taxpayer and any subsequent taxation year, be deemed, except for the purposes of section 3 as it applies for the purposes of section 110.6, to have been” 20

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

36. (1) Subsection 73(5) of the said Act is repealed.

(2) Subsection (1) is applicable with 25 respect to dispositions made after 1987 and in applying subsection 73(5) of the said Act at any time after May 22, 1985, all that portion thereof preceding paragraph (a) thereof shall be read as follows:

“(5) For the purpose of this Part, where at any particular time a taxpayer has transferred property to his child who was resident in Canada immediately before the transfer and the property was, immediate- 35 ly before the transfer, a share of the capital stock of a small business corporation, except where the rules in subsection 74(2) or 74.2(1) require any taxable capital gain from the disposition by the taxpayer of 40 that property to be included in the income of a person other than the taxpayer, the following rules apply.”

b) dans le calcul de son revenu pour l’année d’imposition 1984,

- (i) il n’est pas tenu compte de la mention «du moins élevé des deux montants suivants» et l’expression «est en sus» est remplacée par le mot «dépasse» à l’alinéa 3e), tel qu’appli-
cable à l’année d’imposition 1984, et
- (ii) il n’est pas tenu compte du sous-
alinéa 3e)(ii), tel qu’applicable à l’an- 10
née d’imposition 1984.»

35. (1) Le passage du sous-alinéa 72(2)b)(ii) de la même loi qui précède la division (A) est abrogé et remplacé par ce qui suit : 15

«(ii) aux fins du calcul du revenu du bénéficiaire du transfert pour sa première année d’imposition se terminant après le décès du contribuable et pour toute année d’imposition ultérieure, 20 réputée avoir été, sauf pour l’application de l’article 3 tel qu’il s’applique à l’article 110.6,»

(2) Le paragraphe (1) s’applique aux 25 années d’imposition 1985 et suivantes.

36. (1) Le paragraphe 73(5) de la même loi est abrogé.

(2) Le paragraphe (1) s’applique aux dis-
positions effectuées après 1987; pour l’appli-
cation du paragraphe 73(5) de la même loi à 30
une date postérieure au 22 mai 1985, le passage de ce paragraphe qui précède l’ali-
néa a) est remplacé par ce qui suit :

«(5) Pour l’application de la présente partie, lorsqu’un contribuable transfère un 35 bien, à une date donnée, à son enfant qui résidait au Canada immédiatement avant le transfert et que le bien était, immédiate-
ment avant le transfert, une action du capital-actions d’une corporation exploi- 40 tant une petite entreprise, les règles suivantes s’appliquent, sauf si les règles du paragraphe 74(2) ou 74.2(1) prévoient que tout gain en capital imposable sur la disposition de ce bien par le contribuable doit 45 être inclus dans le revenu d’une autre personne que le contribuable :»

37. (1) Section 74 of the said Act is repealed.

(2) Subsection (1) is applicable with respect to transfers of property made after May 22, 1985, except that

(a) the repeal of the rule in paragraph 74(2)(f) of the said Act is applicable with respect to transfers of property made after 1985; and

(b) with respect to transfers of property made after May 22, 1985 and before 1986, subsection 74(7) of the said Act shall be read as follows:

“(7) Notwithstanding subsection (2), where a person has transferred property either directly or indirectly by means of a trust or by any other means whatever to his spouse or to a person who has since become his spouse, subsection (2) does not apply with respect to any part of a capital gain or capital loss of the spouse from an indexed security investment plan that may reasonably be considered to relate to the period throughout which the person is living apart and is separated from his spouse pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement or to any part of that period, if the person files with his return of income under this Part for the taxation year during which he commenced to so live apart and be so separated from his spouse an election completed jointly with his spouse not to have that subsection apply.”

38. (1) The said Act is further amended by adding thereto, immediately after section 74 thereof, the following sections:

“74.1 (1) Where an individual has transferred or loaned property, either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person who is his spouse or who has since become his spouse, any income or loss, as the case may be, of that person for a taxation year from the property or from property substituted therefor, that relates to the period in the year

37. (1) L'article 74 de la même loi est abrogé.

(2) Le paragraphe (1) s'applique aux transferts de biens effectués après le 22 mai 1985; toutefois :

a) l'abrogation de la règle mentionnée à l'alinéa 74(2)f) de la même loi s'applique aux transferts de biens effectués après 1985; et

b) pour les transferts de biens effectués après le 22 mai 1985 et avant 1986, le paragraphe 74(7) de la même loi est remplacé par ce qui suit :

«(7) Nonobstant le paragraphe (2), lorsqu'une personne a transféré des biens, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à son conjoint ou à une personne qui l'est devenue depuis, le paragraphe (2) ne s'applique pas à une partie d'un gain en capital ou d'une perte en capital du conjoint résultant d'un régime de placements en titres indexés, qu'il est raisonnable de considérer comme se rapportant à tout ou partie de la période tout au long de laquelle la personne vit séparée de son conjoint conformément à un arrêt, une ordonnance ou un jugement d'un tribunal compétent ou à un accord écrit de séparation, si la personne et son conjoint choisissent conjointement dans la déclaration de revenu de la personne en vertu de la présente partie pour l'année d'imposition pendant laquelle elle a commencé à vivre séparée de son conjoint de ne pas se prévaloir de ce paragraphe.»

38. (1) La même loi est modifiée par insertion, après l'article 74, de ce qui suit :

“74.1 (1) Lorsqu'un particulier transfère ou prête un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne qui est son conjoint ou qui le devient par la suite ou au profit de cette personne, le revenu ou la perte, selon le cas, de cette personne, pour une année d'imposition provenant du bien ou d'un bien y substitué, qui se rapporte à la période de l'année tout au long

Transfers and loans to spouse

Transfert ou prêt au conjoint

Transfers and
loans to minorsRepayment of
existing
indebtedness

throughout which the individual is resident in Canada and that person is his spouse, shall be deemed to be income or a loss, as the case may be, of the individual for the year and not of that person.

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(2) Where an individual has transferred or loaned property, either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person who was under 18 years of age, any income or loss, as the case may be, of that person for a taxation year from the property or from property substituted therefor, that relates to the period in the year throughout which the individual is resident in Canada, shall be deemed to be income or a loss, as the case may be, of the individual and not of that person unless that person has, before the end of the year, attained the age of 18 years.

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(3) For the purposes of subsections (1) and (2), where, at any time, an individual has loaned or transferred property (in this subsection referred to as the "loaned or transferred property") either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person, and the loaned or transferred property or property substituted therefor is used

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(a) to repay, in whole or in part, borrowed money with which other property was acquired, or

(b) to reduce an amount payable for other property,

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there shall be included in computing the income from the loaned or transferred property, or from property substituted therefor, that is so used, that proportion of the income or loss, as the case may be, derived after that time from the other property or from property substituted therefor that the fair market value at that time of the loaned or transferred property, or property substituted therefor, that is so used is of the cost to that person of the other property at the time of its acquisition, but for greater certainty nothing in this subsection shall affect the application

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de laquelle le particulier réside au Canada et tout au long de laquelle cette personne est son conjoint, est considéré comme un revenu ou une perte, selon le cas, du particulier pour l'année et non de cette personne.

(2) Lorsqu'un particulier transfère ou prête un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne de moins de 18 ans ou au profit de cette personne, le revenu ou la perte, selon le cas, de cette personne pour une année d'imposition provenant du bien ou d'un bien y substitué, qui se rapporte à la période de l'année tout au long de laquelle le particulier réside au Canada, est considéré comme un revenu ou une perte, selon le cas, du particulier et non de cette personne, sauf si celle-ci atteint l'âge de 18 ans avant la fin de l'année.

Transfert ou
prêt à un
mineur

(3) Pour l'application des paragraphes (1) et (2), lorsqu'un particulier, à une date quelconque, prête ou transfère un bien — appelé «bien prêté ou transféré» au présent paragraphe —, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne ou au profit d'une personne et que le bien prêté ou transféré ou un bien y substitué est utilisé :

Rembourse-
ment d'une
dette

a) soit pour rembourser tout ou partie de l'argent emprunté et utilisé pour acquérir un autre bien,

b) soit pour réduire un montant payable pour un autre bien,

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est inclus dans le calcul du revenu tiré du bien prêté ou transféré, ou du bien y substitué, ainsi utilisé le produit obtenu en multipliant le revenu ou la perte, selon le cas, dérivé après cette date de l'autre bien ou du bien y substitué, par le rapport entre la juste valeur marchande à cette date du bien prêté ou transféré, ou du bien y substitué, ainsi utilisé et le coût de l'autre bien pour cette personne à la date de son acquisition; il est entendu toutefois que rien au présent paragraphe ne modifie l'application des paragraphes (1) et (2) à un revenu ou une perte dérivé de l'autre bien ou du bien y substitué.

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of subsections (1) and (2) to any income or loss derived from the other property or from property substituted therefor.

74.2 (1) Where an individual has loaned or transferred property (in this section referred to as "loaned or transferred property"), either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person (in this subsection referred to as the "recipient") who is his spouse or who has since become his spouse, the following rules apply for the purposes of computing the income of the individual and the recipient for a taxation year:

- (a) the amount, if any, by which
- (i) the aggregate of the recipient's taxable capital gains for the year from dispositions of property (other than listed personal property) that is loaned or transferred property or property substituted therefor occurring in the period (in this subsection referred to as the "attribution period") throughout which the individual is resident in Canada and the recipient is his spouse

exceeds

- (ii) the aggregate of the recipient's allowable capital losses for the year from dispositions occurring in the attribution period of property (other than listed personal property) that is loaned or transferred property or property substituted therefor

shall be deemed to be a taxable capital gain of the individual for the year from the disposition of property other than listed personal property;

- (b) the amount, if any, by which the aggregate determined under subparagraph (a)(ii) exceeds the aggregate determined under subparagraph (a)(i) shall be deemed to be an allowable capital loss of the individual for the year from the disposition of property other than listed personal property;

- (c) the amount, if any, by which

- (i) the amount that the aggregate of the recipient's gains for the year from

74.2 (1) Lorsqu'un particulier prête ou transfère un bien — appelé «bien prêté ou transféré» au présent article —, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une personne — appelée «bénéficiaire» au présent paragraphe — qui est son conjoint ou qui le devient par la suite ou au profit de cette personne, les règles suivantes s'appliquent au calcul du revenu du particulier et du bénéficiaire pour une année d'imposition :

- a) est réputé être un gain en capital imposable réalisé par le particulier pour l'année sur la disposition d'un bien, à l'exclusion d'un bien personnel désigné, l'excédent éventuel

- (i) du total des gains en capital imposables réalisés par le bénéficiaire pour l'année sur la disposition de biens (à l'exclusion de biens personnels désignés) qui sont des biens prêtés ou transférés ou des biens y substitués, pendant la période — appelée «période d'attribution» au présent paragraphe — tout au long de laquelle le particulier réside au Canada et tout au long de laquelle le bénéficiaire est son conjoint

sur

- (ii) le total des pertes en capital déductibles subies par le bénéficiaire pour l'année à la disposition, effectuée pendant la période d'attribution, de biens (à l'exclusion de biens personnels désignés) qui sont des biens prêtés ou transférés ou des biens y substitués;

- b) est réputé être une perte en capital déductible subie par le particulier pour l'année à la disposition d'un bien, à l'exclusion d'un bien personnel désigné, l'excédent éventuel du total calculé selon le sous-alinéa a)(ii) sur le total calculé selon le sous-alinéa a)(i);

- c) est réputé être un gain réalisé par le particulier pour l'année sur la disposi-

Gain or loss deemed that of lender or transferor

Gain ou perte réputé du prêteur ou de l'auteur du transfert

dispositions occurring in the attribution period of listed personal property that is loaned or transferred property or property substituted therefor would be if the recipient had at no time 5 owned listed personal property other than listed personal property that was loaned or transferred property or property substituted therefor

exceeds 10

(ii) the amount that the aggregate of the recipient's losses for the year from dispositions of listed personal property that is loaned or transferred property or property substituted therefor would 15 be if the recipient had at no time owned listed personal property other than listed personal property that was loaned or transferred property or property substituted therefor, 20

shall be deemed to be a gain of the individual for the year from the disposition of listed personal property;

(d) the amount, if any, by which the aggregate determined under subparagraph (c)(ii) exceeds the aggregate determined under subparagraph (c)(i) shall be deemed to be a loss of the individual for the year from the disposition of listed personal property; and 30

(e) any taxable capital gain or allowable capital loss or any gain or loss taken into account in computing an amount described in paragraph (a), (b), (c) or (d) shall, except for the purposes 35 of those paragraphs and to the extent that the amount so described is deemed by virtue of this subsection to be a taxable capital gain or an allowable capital loss or a gain or loss of the individual, be 40 deemed not to be a taxable capital gain or an allowable capital loss or a gain or loss, as the case may be, of the recipient.

(2) For the purposes of sections 3 and 111 as they apply for the purposes of 45 section 110.6, where an individual is

tion d'un bien personnel désigné, l'excédent éventuel

(i) du montant qui représenterait le total des gains réalisés par le bénéficiaire pour l'année sur la disposition, 5 effectuée pendant la période d'attribution, de biens personnels désignés qui sont des biens prêtés ou transférés ou des biens y substitués, si des biens personnels désignés, à l'exclusion de 10 biens personnels désignés qui sont des biens prêtés ou transférés et des biens y substitués, n'avaient, à aucun moment, appartenu au bénéficiaire

sur 15

(ii) le montant qui représenterait le total des pertes subies par le bénéficiaire pour l'année à la disposition de biens personnels désignés qui sont des biens prêtés ou transférés ou des biens 20 y substitués, si des biens personnels désignés, à l'exclusion de biens personnels désignés qui sont des biens prêtés ou transférés et des biens y substitués, n'avaient, à aucun 25 moment, appartenu au bénéficiaire;

d) est réputé être une perte subie par le particulier pour l'année à la disposition d'un bien personnel désigné, l'excédent éventuel du total calculé selon le sous- 30 alinéa c)(ii) sur le total calculé selon le sous-alinéa c)(i);

e) tout gain en capital imposable ou toute perte en capital déductible ou tout gain ou toute perte pris en compte dans 35 le calcul d'un montant visé à l'alinéa a), b), c) ou d) est réputé ne pas être un gain en capital imposable, une perte en capital déductible, un gain ou une perte, selon le cas, réalisé ou subie par le béné- 40 ficiaire, sauf pour l'application de ces alinéas et dans la mesure où le montant ainsi visé est réputé, à cause du présent paragraphe, être un gain en capital imposable, une perte en capital déducti- 45 ble, un gain ou une perte réalisé ou subie par le particulier.

(2) Pour l'application des articles 3 et 111 tels qu'ils s'appliquent à l'article 110.6, lorsqu'un particulier est réputé, 50

Gain ou perte
réputé

Deemed gain or
loss

deemed under subsection (1), subsection 74(2) or section 75.1 to have a taxable capital gain or allowable capital loss for a taxation year, such portion of the gain or loss as may reasonably be considered to relate to the disposition of a property by another person in the year shall be deemed to arise from the disposition of that property by the individual in the year.

Transfers or
loans to a trust

74.3 (1) Where an individual has loaned or transferred property (in this section referred to as "loaned or transferred property"), either directly or indirectly, by means of a trust or by any other means whatever, to a trust in which another individual who is at any time a designated person in respect of the individual is beneficially interested at any time, the following rules apply:

(a) for the purposes of section 74.1, the income of the designated person for a taxation year from the property shall be deemed to be an amount equal to the lesser of

(i) the amount in respect of the trust that was included by virtue of paragraph 12(1)(m) in computing the income for the year of the designated person, and

(ii) that proportion of the amount that would be the income of the trust for the year from the property or from property substituted therefor if no deduction were made under subsections 104(6) or (12) that

(A) the amount determined under subparagraph (i) in respect of the designated person for the year is of

(B) the aggregate of all amounts each of which is an amount determined under subparagraph (i) for the year in respect of the designated person or any other person who is throughout the year a designated person in respect of the individual; and

(b) for the purposes of section 74.2, an amount equal to the lesser of

selon le paragraphe (1) ou 74(2) ou l'article 75.1, avoir réalisé un gain en capital imposable ou avoir subi une perte en capital déductible pour une année d'imposition, la partie du gain ou de la perte qu'il est raisonnable de considérer comme liée à la disposition d'un bien par une autre personne dans l'année est réputée provenir de la disposition de ce bien par le particulier dans l'année.

74.3 (1) Lorsqu'un particulier prête ou transfère un bien — appelé «bien prêté ou transféré» au présent article — directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une fiducie dans laquelle un autre particulier — qui, à une date quelconque, est, en ce qui concerne le particulier, une personne désignée — a un droit de bénéficiaire à une date quelconque, les règles suivantes s'appliquent :

a) pour l'application de l'article 74.1, le revenu que la personne désignée tire du bien pour une année d'imposition est réputé correspondre au moindre des montants suivants :

(i) le montant, à l'égard de la fiducie, qui est inclus, en vertu de l'alinéa 12(1)m), dans le calcul du revenu de la personne désignée pour l'année,

(ii) le produit obtenu en multipliant le montant qui correspondrait au revenu que la fiducie tirerait du bien ou d'un bien y substitué pour l'année, si aucune déduction n'était faite en vertu du paragraphe 104(6) ou (12), par le rapport entre :

(A) le montant calculé pour l'année selon le sous-alinéa (i) à l'égard de la personne désignée

et

(B) le total des montants dont chacun représente un montant calculé pour l'année selon le sous-alinéa (i) à l'égard de la personne désignée ou d'une autre personne qui est, en ce qui concerne le particulier et tout au long de l'année, une personne désignée;

b) pour l'application de l'article 74.2, est réputé être un gain en capital imposable

Transfert ou
prêt à une
fiducie

	<p>(i) the amount that was designated under subsection 104(21) in respect of the designated person in the trust's return of income for the year, and</p> <p>(ii) the amount, if any, by which</p> <p>(A) the aggregate of all amounts each of which is a taxable capital gain for the year from the disposition by the trust of the property or property substituted therefor exceeds</p> <p>(B) the aggregate of all amounts each of which is an allowable capital loss for the year from the disposition by the trust of the property or property substituted therefor,</p> <p>shall be deemed to be a taxable capital gain of the designated person for the year from the disposition of property (other than listed personal property) that is loaned or transferred property.</p>	<p>sable réalisé par la personne désignée pour l'année sur la disposition d'un bien (à l'exclusion d'un bien personnel désigné) qui est un bien prêté ou transféré, le moindre des montants suivants :</p> <p>(i) le montant attribué à la personne désignée en vertu du paragraphe 104(21), dans la déclaration de revenu de la fiducie pour l'année,</p> <p>(ii) l'excédent éventuel</p> <p>(A) du total des gains en capital imposables pour l'année réalisés par la fiducie sur la disposition de biens ou de biens y substitués</p> <p>(B) le total des pertes en capital déductibles subies par la fiducie pour l'année à la disposition de biens ou de biens y substitués.</p>
Definition of "designated person"	<p>(2) For the purposes of subsection (1), "designated person", in respect of an individual, means a person</p> <p>(a) who is the individual's spouse; or</p> <p>(b) who is under 18 years of age.</p>	<p>(2) Pour l'application du paragraphe (1), «personne désignée» s'entend, en ce qui concerne un particulier,</p> <p>a) du conjoint du particulier;</p> <p>b) d'une personne de moins de 18 ans.</p>
Definitions "designated benefit" «avantage déterminé»	<p>74.4 (1) In this section, "designated benefit", at any particular time, in respect of property loaned or transferred either directly or indirectly by means of a trust or by any other means whatever by an individual (in this definition referred to as the "transferor") to a corporation, means</p> <p>(a) in the case of a loan of property that is money, the principal amount of the loan outstanding at the particular time,</p> <p>(b) in the case of a loan of property other than money, the fair market value of the property at the time the loan was made, and</p> <p>(c) in the case of a transfer of property, the amount, if any, by which</p> <p>(i) the fair market value of the property at the time the transfer was made to the corporation exceeds</p> <p>(ii) the aggregate of</p>	<p>74.4 (1) Les définitions qui suivent s'appliquent au présent article.</p> <p>«actionnaire déterminé» Actionnaire d'une corporation donnée, qui est, en ce qui concerne un particulier,</p> <p>a) soit le conjoint du particulier;</p> <p>b) soit une personne de moins de 18 ans;</p> <p>c) soit une société dont une personne visée à l'alinéa a) ou b) est associée;</p> <p>d) soit une fiducie dans laquelle une personne visée à l'alinéa a) ou b) a un droit de bénéficiaire;</p> <p>e) soit une corporation (à l'exclusion d'une corporation exploitant une petite entreprise) dont une personne visée à l'alinéa a) ou b) est actionnaire désigné.</p> <p>«avantage déterminé» Montant, à une date donnée, relatif à un bien qu'un particulier — appelé «auteur du transfert» à la présente définition — prête ou transfère</p>

(A) the fair market value, at the time the transfer was made, of the consideration, other than consideration that is excluded consideration at the particular 5 time, received by the transferor for the property, and
(B) the fair market value, at the time of receipt, of any consideration 10 that is excluded consideration at the particular time, received by the transferor at or before the particular time from the corporation or from a person with whom 15 the transferor deals at arm's length, in exchange for excluded consideration previously received by the transferor as consideration for the property; 20

"designated shareholder" of a subject corporation in respect of an individual means a shareholder of the subject corporation that is

- (a) a person who is the individual's 25 spouse,
- (b) a person who is under 18 years of age,
- (c) a partnership of which a person described in paragraph (a) or (b) is a 30 member,
- (d) a trust in which a person described in paragraph (a) or (b) is beneficially interested, or
- (e) a corporation (other than a small 35 business corporation) of which a person described in paragraph (a) or (b) is a specified shareholder;

"excluded consideration", at any time, means consideration received by an 40 individual that is

- (a) indebtedness,
- (b) a share of the capital stock of a corporation, where the articles of the corporation provide for more than one 45 class of shares at that time, or
- (c) a right to receive a share described in paragraph (b);

"monthly designated benefit" in respect of a property, for a month or a portion 50 thereof, means the greatest amount that

à une corporation directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, et qui correspond :

- a) au principal du prêt non remboursé à la date donnée, dans le cas d'un prêt de bien — consistant en argent —;
- b) à la juste valeur marchande du bien à la date où le prêt est consenti, 10 dans le cas d'un prêt de bien — ne consistant pas en argent —;
- c) à l'excédent éventuel, dans le cas d'un transfert de bien,
 - (i) de la juste valeur marchande du 15 bien à la date où il est transféré à la corporation

sur

- (ii) le total des montants suivants :
 - (A) la juste valeur marchande, à 20 la date du transfert, de la contrepartie, à l'exception d'une contrepartie exclue à la date donnée, reçue par l'auteur du transfert pour le bien, 25
 - (B) la juste valeur marchande, à la date de réception, de la contrepartie, à l'exception d'une contrepartie exclue à la date donnée, reçue par l'auteur du transfert, 30 au plus tard à la date donnée, de la corporation ou d'une personne avec qui il n'avait aucun lien de dépendance, en échange de la contrepartie exclue reçue par lui 35 antérieurement pour le bien.

«avantage mensuel déterminé» Le montant maximal de l'avantage déterminé relatif au bien pour un mois ou une partie de mois. 40

«avantage mensuel déterminé»
"monthly designated benefit"

«contrepartie exclue» Contrepartie que reçoit un particulier et qui consiste, à une date quelconque,

«contrepartie exclue»
"excluded consideration"

- a) soit en un titre de créance;
- b) soit en une action du capital- 45 actions d'une corporation si les statuts de la corporation prévoient plus d'une catégorie d'actions à cette date;
- c) soit en un droit de recevoir une action visée à l'alinéa b). 50

"designated shareholder"
«actionnaire déterminé»

"excluded consideration"
«contrepartie exclue»

"monthly designated benefit"
«avantage mensuel»

the designated benefit in respect of the property is at any time in the month or the portion, as the case may be.

Transfers and loans to corporation for benefit of spouse or minor

(2) Where an individual has loaned or transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to a corporation (in this section referred to as the "subject corporation") other than a small business corporation, in computing the income of the individual for a taxation year, with respect to the period (in this section referred to as the "relevant period") in the year and after the time of the loan or transfer and throughout which the individual is resident in Canada and any shareholder of the subject corporation is a designated shareholder in respect of the individual, an amount equal to the amount calculated under subsection (3) in respect of the property shall be deemed to be a taxable dividend received by the individual in the year from the subject corporation.

Calculation of amount

(3) For the purpose of subsection (2), the amount calculated under this subsection in respect of the property with respect to the relevant period in the year is the amount, if any, by which the lesser of

- (a) the amount, if any, by which
 - (i) the aggregate of
 - (A) the aggregate of all amounts each of which is the product obtained when
 - (I) the monthly designated benefit in respect of the property for a month, or a portion thereof, in the relevant period
 is multiplied by
 - (II) $\frac{2}{3}$ of the quotient obtained when the rate of interest prescribed for the purpose of subsection 161(1) that is in effect during that month is divided by 12, and
 - (B) the aggregate of all amounts each of which is an amount calculated under clause (A) in respect of the property with respect to a relevant period in a preceding taxation year

(2) Lorsqu'un particulier prête ou transfère un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une corporation — appelée «corporation donnée» au présent article —, à l'exclusion d'une corporation exploitant une petite entreprise, le montant correspondant au montant relatif au bien calculé selon le paragraphe (3) est réputé être un dividende imposable que le particulier a reçu de la corporation donnée pour l'année, dans le calcul du revenu du particulier pour une année d'imposition, à l'égard de la période de l'année — appelée «période applicable» au présent article — postérieure à la date du prêt ou du transfert, tout au long de laquelle le particulier réside au Canada et tout au long de laquelle un actionnaire de la corporation donnée est un actionnaire déterminé en ce qui concerne le particulier.

Transfert et prêt à une corporation au profit du conjoint ou d'un mineur

(3) Pour l'application du paragraphe (2), le montant relatif au bien calculé selon le présent paragraphe à l'égard de la période applicable de l'année correspond à l'excédent éventuel du moindre :

Calcul du montant relatif au bien

- a) de l'excédent éventuel
 - (i) du total :
 - (A) de l'ensemble des montants dont chacun représente le produit obtenu en multipliant
 - (I) l'avantage mensuel déterminé relatif au bien pour un mois, ou une partie de mois, de la période applicable,
 - (II) les deux tiers du quotient obtenu en divisant par 12 le taux d'intérêt prescrit, pour l'application du paragraphe 161(1), qui est en vigueur pendant ce mois, et
 - (B) de l'ensemble des montants dont chacun représente un montant relatif au bien calculé selon la division (A) à l'égard d'une période applicable d'une année d'imposition antérieure

exceeds

(ii) the aggregate of

(A) the aggregate of all amounts each of which is a taxable dividend paid in the year or a preceding taxation year to the individual or to a taxable Canadian corporation that is wholly-owned by him, on a share that is excluded consideration received by him as consideration for the loan or transfer of the property or excluded consideration substituted therefor, and

(B) $\frac{2}{3}$ of the aggregate of all amounts each of which is an amount included in computing the income for the year or a preceding taxation year of the individual or a taxable Canadian corporation that is wholly-owned by him as interest on excluded consideration, received by him as consideration for the loan or transfer of the property or on excluded consideration substituted therefor, and

(b) the aggregate of all amounts each of which is

(i) a taxable dividend paid by the subject corporation in the relevant period or a relevant period in a preceding taxation year to a designated shareholder of the subject corporation in respect of the individual, or

(ii) a capital gain of the individual's spouse from a disposition of property occurring in the relevant period or in a relevant period in a preceding taxation year, to the extent that the gain may reasonably be attributed to an increase in the value of the property loaned or transferred or of property substituted therefor

exceeds

(c) the aggregate of all amounts each of which is an amount calculated under this subsection for the purpose of subsection (2) in respect of the property for a preceding taxation year.

sur

(ii) le total :

(A) de l'ensemble des montants dont chacun représente un dividende imposable versé dans l'année ou dans une année d'imposition antérieure au particulier ou à une corporation canadienne imposable que celui-ci possède en propriété exclusive, sur une action qui est une contrepartie exclue que celui-ci a reçue pour le prêt ou pour le transfert du bien ou une contrepartie exclue y substituée, et

(B) des deux tiers du total des montants dont chacun représente un montant inclus dans le calcul du revenu pour l'année ou pour une année d'imposition antérieure du particulier ou d'une corporation canadienne imposable que celui-ci possède en propriété exclusive, à titre d'intérêts sur la contrepartie exclue que celui-ci a reçue pour le prêt ou pour le transfert du bien ou sur une contrepartie exclue y substituée;

b) du total des montants dont chacun représente :

(i) un dividende imposable versé par la corporation donnée, au cours de la période applicable ou d'une période applicable d'une année d'imposition antérieure, à un actionnaire déterminé, en ce qui concerne le particulier, de la corporation donnée, ou

(ii) un gain en capital réalisé par le conjoint du particulier sur la disposition d'un bien effectuée dans la période applicable ou dans une période applicable d'une année d'imposition antérieure, dans la mesure où il est raisonnable d'attribuer le gain à une augmentation de valeur du bien prêté ou transféré ou d'un bien y substitué;

sur

c) le total des montants dont chacun représente un montant relatif au bien calculé selon le présent paragraphe pour

Deduction
permitted

(4) Where an individual has loaned or transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to a corporation and as a consequence thereof an amount (in this subsection referred to as the "attributed amount") has, by virtue of subsection (2), been deemed to be a taxable dividend received from a subject corporation by an individual in a taxation year, the following rules apply:

- (a) an amount equal to the lesser of
- (i) the aggregate of all taxable dividends paid by the subject corporation in the year to a designated shareholder of the subject corporation in respect of the individual, and
 - (ii) that portion of the attributed amount that

(A) the amount determined under subparagraph (i) in respect of the designated shareholder for the year is of

(B) the aggregate of all amounts each of which is an amount determined under subparagraph (i) for the year in respect of a designated shareholder of the subject corporation in respect of the individual

shall be deemed not to be a taxable dividend received from the subject corporation in the year by the designated shareholder; and

- (b) an amount equal to the lesser of
- (i) the amount that would have been the amount determined under subparagraph (3)(b)(ii) for the year in respect of the designated shareholder if that subparagraph were read without reference to the words "or in a relevant period in a preceding taxation year", and

(ii) the amount, if any, by which

(A) the attributed amount exceeds

(B) the aggregate of all amounts each of which is an amount determined under paragraph (a) for the

l'application du paragraphe (2) pour une année d'imposition antérieure.

Déduction
admise

(4) Lorsqu'un particulier prête ou transfère un bien à une corporation, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, et que, par suite du prêt ou du transfert, un montant — appelé «montant attribué» au présent paragraphe — est réputé, à cause du paragraphe (2), être un dividende imposable qu'un particulier a reçu d'une corporation donnée au cours d'une année d'imposition, les règles suivantes s'appliquent :

a) est réputé ne pas être un dividende imposable qu'un actionnaire déterminé de la corporation donnée reçoit de celle-ci dans l'année, le moindre des montants suivants :

- (i) le total des dividendes imposables versés par la corporation donnée dans l'année à un actionnaire déterminé, en ce qui concerne le particulier, de la corporation donnée,
- (ii) le produit obtenu en multipliant le montant attribué par le rapport entre :

(A) le montant calculé selon le sous-alinéa (i) à l'égard de l'actionnaire déterminé pour l'année

et

(B) le total des montants dont chacun représente un montant calculé selon le sous-alinéa (i) pour l'année à l'égard d'un actionnaire déterminé, en ce qui concerne le particulier, de la corporation donnée;

b) est réputé ne pas être un gain en capital réalisé par l'actionnaire déterminé sur la disposition, par lui, d'un bien dans l'année, le moindre des montants suivants :

- (i) le montant qui serait calculé selon le sous-alinéa (3)b)(ii) pour l'année à l'égard de l'actionnaire déterminé, s'il n'était pas tenu compte de la mention «ou dans une période applicable d'une année d'imposition antérieure» à ce sous-alinéa,

(ii) l'excédent éventuel

(A) du montant attribué

year in respect of a designated shareholder of the subject corporation in respect of the individual,

shall be deemed not to be a capital gain of the designated shareholder from the disposition of a property by him in the year.

Time of dividend

(5) For the purposes of this section, where one or more loans or transfers of property have been made as part of a series of transactions or events which includes the payment of a dividend, and it may reasonably be considered that the payment of the dividend was made in contemplation of such loans or transfers, the dividend shall be deemed to have been paid immediately after the first such loan or transfer, as the case may be.

Transfers for fair market consideration

74.5 (1) Notwithstanding any other provision of this Act, subsections 74.1(1) and (2) and section 74.2 do not apply to any income, gain or loss derived in a particular taxation year from transferred property or from property substituted therefor if

(a) at the time of the transfer the fair market value of the transferred property did not exceed the fair market value of the property received by the transferor as consideration for the transferred property;

(b) where the consideration received by the transferor included indebtedness,

(i) interest was charged on the indebtedness at a rate equal to or greater than the lesser of

(A) the rate prescribed for the purpose of subsection 161(1) that was in effect at the time the indebtedness was incurred, and

(B) the rate that would, having regard to all the circumstances, have been agreed upon, at the time the indebtedness was incurred, between parties dealing with each other at arm's length,

(ii) the amount of interest that was payable in respect of the particular year in respect of the indebtedness

sur

(B) le total des montants dont chacun représente un montant calculé selon l'alinéa a) pour l'année à l'égard d'un actionnaire déterminé, en ce qui concerne le particulier, de la corporation donnée.

(5) Pour l'application du présent article, lorsqu'un ou plusieurs prêts ou transferts de biens sont faits dans le cadre d'une série d'opérations ou d'événements qui comporte le versement d'un dividende, et qu'il est raisonnable de considérer que le dividende est versé en vue de ces prêts ou de ces transferts, le dividende est réputé versé immédiatement après le premier prêt ou transfert, selon le cas.

Date de versement réputé du dividende

74.5 (1) Nonobstant les autres dispositions de la présente loi, les paragraphes 74.1(1) et (2) et l'article 74.2 ne s'appliquent pas à un revenu, un gain ou une perte dérivé, dans une année d'imposition donnée, d'un bien transféré ou d'un bien y substitué,

Transfert avec contrepartie à la juste valeur marchande

a) si, à la date du transfert, la juste valeur marchande du bien transféré ne dépasse pas la juste valeur marchande du bien que l'auteur du transfert reçoit en contrepartie du bien transféré;

b) si, dans le cas où la contrepartie reçue par l'auteur du transfert comprend une créance,

(i) des intérêts sont comptés sur la créance à un taux égal ou supérieur au moindre :

(A) du taux prescrit, en application du paragraphe 161(1), qui est en vigueur à la date d'établissement de la créance,

(B) du taux dont les parties, si elles n'avaient aucun lien de dépendance, seraient convenues à la date d'établissement de la créance, compte tenu de toutes les circonstances,

(ii) le montant des intérêts qui était payable sur la créance pour l'année donnée est payé au plus tard 30 jours après la fin de l'année donnée, et

was paid not later than 30 days after the end of the particular year, and
 (iii) the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the indebtedness was paid not later than 30 days after the end of each such taxation year; and

(c) where the property was transferred to or for the benefit of the transferor's spouse, the transferor elected in his return of income under this Part for the taxation year in which the property was transferred not to have the provisions of subsection 73(1) apply.

Loans for value

(2) Notwithstanding any other provision of this Act, subsections 74.1(1) and (2) and section 74.2 do not apply to any income, gain or loss derived in a particular taxation year from loaned property or from property substituted therefor if

(a) interest was charged on the loan at a rate equal to or greater than the lesser of

(i) the rate prescribed for the purpose of subsection 161(1) that was in effect at the time the loan was made, and

(ii) the rate that would, having regard to all the circumstances, have been agreed upon, at the time the loan was made, between parties dealing with each other at arm's length;

(b) the amount of interest that was payable in respect of the particular year in respect of the loan was paid not later than 30 days after the end of the particular year; and

(c) the amount of interest that was payable in respect of each taxation year preceding the particular year in respect of the loan was paid not later than 30 days after the end of each such taxation year.

Spouses living apart

(3) Notwithstanding subsection 74.1(1) and section 74.2, where an individual has loaned or transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to or for

(iii) le montant des intérêts qui était payable sur la créance pour chaque année d'imposition précédant l'année donnée est payé au plus tard 30 jours après la fin de chacune de ces années d'imposition, et

c) si, dans le cas où le bien est transféré au conjoint de l'auteur du transfert ou au profit de son conjoint, l'auteur du transfert choisit, dans sa déclaration de revenu en vertu de la présente partie pour l'année d'imposition où le bien est transféré, de ne pas se prévaloir du paragraphe 73(1).

(2) Nonobstant les autres dispositions de la présente loi, les articles 74.1(1) et (2) et l'article 74.2 ne s'appliquent pas à un revenu, un gain ou une perte dérivé, dans une année d'imposition donnée, d'un bien prêté ou d'un bien y substitué,

a) si des intérêts sont comptés sur le prêt à un taux égal ou supérieur au moindre :

(i) du taux prescrit, en application du paragraphe 161(1), qui est en vigueur à la date où le prêt est consenti,

(ii) du taux dont les parties, si elles n'avaient aucun lien de dépendance, seraient convenues à la date où le prêt est consenti, compte tenu de toutes les circonstances,

b) si le montant des intérêts qui était payable sur le prêt pour l'année donnée est payé au plus tard 30 jours après la fin de l'année donnée, et

c) si le montant des intérêts qui était payable sur le prêt pour chaque année d'imposition qui précède l'année donnée est payé au plus tard 30 jours après la fin de chacune de ces années d'imposition.

Conjoints vivant séparés

(3) Par dérogation au paragraphe 74.1(1) et à l'article 74.2, lorsqu'un particulier prête ou transfère un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une

the benefit of a person who is his spouse or who has since become his spouse,

(a) subsection 74.1(1) does not apply with respect to any income or loss from the property, or property substituted therefor, that relates to the period throughout which the individual is living apart and is separated from that person pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement; and

(b) section 74.2 does not apply with respect to a disposition of the property, or property substituted therefor, during the period throughout which the individual is living apart and is separated from that person pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement, if the individual files with his return of income under this Part for the taxation year during which he commenced to so live apart and be so separated from that person an election completed jointly with that person not to have that section apply.

(4) Notwithstanding any other provision of this Act and except as provided in subsection (5), where an individual has loaned or transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to a corporation the shareholders of which include

(a) a person who is or who has since become the individual's spouse,

(b) a partnership of which such a person is a member,

(c) a trust in which such a person is beneficially interested, or

(d) another corporation of which such a person is the sole shareholder,

no amount shall be determined under subparagraph 74.4(3)(b)(i) or (ii) in respect of a taxable dividend paid by the corporation to that person or that other corporation or in respect of a capital gain realized by that person with respect to the period throughout which the individual is living apart and is separated from that person

personne qui est son conjoint ou qui le devient par la suite ou au profit de cette personne,

a) le paragraphe 74.1(1) ne s'applique pas à un revenu ou une perte provenant du bien ou d'un bien y substitué, qui se rapporte à la période tout au long de laquelle le particulier vit séparé de cette personne conformément à un arrêt, une ordonnance ou un jugement d'un tribunal compétent ou à un accord écrit de séparation;

b) l'article 74.2 ne s'applique pas à une disposition du bien ou d'un bien y substitué, pendant la période tout au long de laquelle le particulier vit séparé de cette personne conformément à un arrêt, une ordonnance ou un jugement d'un tribunal compétent ou à un accord écrit de séparation, si le particulier et cette personne choisissent conjointement, dans la déclaration de revenu du particulier en vertu de la présente partie pour l'année d'imposition pendant laquelle il a commencé à vivre séparé de cette personne, de ne pas se prévaloir de cet article.

(4) Par dérogation aux autres dispositions de la présente loi et sous réserve du paragraphe (5), lorsqu'un particulier prête ou transfère un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une corporation qui compte parmi ses actionnaires

a) soit une personne qui est le conjoint du particulier ou qui le devient par la suite,

b) soit une société dont cette personne est associée,

c) soit une fiducie dans laquelle cette personne a un droit de bénéficiaire,

d) soit une autre corporation dont cette personne est l'unique actionnaire,

aucun montant ne peut être calculé en vertu du sous-alinéa 74.4(3)b)(i) ou (ii) au titre d'un dividende imposable versé par la corporation à cette personne ou à cette autre corporation ou au titre d'un gain en capital réalisé par cette personne, pour la période tout au long de laquelle le particu-

Idem

Idem

Exception

pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement.

(5) Subsections (3) and (4) do not apply where an individual who is separated from his spouse pursuant to a written separation agreement ceases to live apart from that spouse within 12 months after the date on which the agreement was entered into.

Back-to-back loans and transfers

(6) Where an individual has loaned or transferred property

(a) to another person and that property, or property substituted therefor, is loaned or transferred by any person (in this subsection referred to as a "third party") to or for the benefit of a specified person with respect to the individual, or

(b) to another person on condition that property be loaned or transferred by any person (in this subsection referred to as a "third party") to or for the benefit of a specified person with respect to the individual,

the following rules apply:

(c) for the purposes of sections 74.1, 74.2 and 74.4, the property loaned or transferred by the third party shall be deemed to have been loaned or transferred, as the case may be, by the individual to or for the benefit of the specified person; and

(d) for the purposes of subsection (1), the consideration received by the third party for the transfer of the property shall be deemed to have been received by the individual.

Guarantees

(7) Where an individual is obligated, either absolutely or contingently, to effect any undertaking including any guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of a loan made by any person (in this subsection referred to as the "third party") to or for the benefit of a specified person with respect to the individual or the payment, in whole or in part, of any interest payable in

lier vit séparé de cette personne conformément à un arrêt, une ordonnance ou un jugement d'un tribunal compétent ou à un accord écrit de séparation.

(5) Les paragraphes (3) et (4) ne s'appliquent pas dans le cas où un particulier séparé de son conjoint conformément à un accord écrit de séparation cesse de vivre séparé de ce conjoint dans les 12 mois suivant la date où l'accord est conclu.

(6) Lorsqu'un particulier prête ou transfère un bien :

a) à une autre personne et qu'une personne — appelée « tiers » au présent paragraphe — prête ou transfère ce bien ou un bien y substitué à une personne donnée, en ce qui concerne le particulier, ou au profit de cette personne, ou

b) à une autre personne à la condition qu'une personne — appelée « tiers » au présent paragraphe — prête ou transfère ce bien à une personne donnée, en ce qui concerne le particulier, ou au profit de cette personne,

les règles suivantes s'appliquent :

c) pour l'application des articles 74.1, 74.2 et 74.4, le bien que le tiers prête ou transfère est réputé prêté ou transféré, selon le cas, par le particulier à la personne donnée ou à son profit;

d) pour l'application du paragraphe (1), la contrepartie que le tiers reçoit pour le transfert du bien est réputée reçue par le particulier.

(7) Lorsqu'un particulier est tenu, conditionnellement ou non, d'exécuter un engagement, notamment une garantie, une entente ou un accord conclu afin de s'assurer soit du remboursement, en tout ou en partie, d'un prêt qu'une personne — appelée « tiers » au présent paragraphe — consent à une personne donnée, en ce qui concerne le particulier, ou au profit de cette personne, soit du paiement, en tout

Exception

Prêts et transferts multiples

Garanties

respect of the loan, the following rules apply:

- (a) for the purposes of sections 74.1, 74.2 and 74.4, the property loaned by the third party shall be deemed to have been loaned by the individual to or for the benefit of the specified person; and
- (b) for the purposes of paragraphs (2)(b) and (c), the amount of interest that is paid in respect of the loan shall be deemed not to include any amount paid by the individual to the third party as interest on the loan.

(8) For the purposes of subsections (6) and (7), "specified person", with respect to an individual, means

- (a) a person who is or who has become the spouse of the individual;
- (b) a person who is under 18 years of age; or
- (c) a corporation, other than a small business corporation, the shareholders of which include a person described in paragraph (a) or (b), a trust in which such a person is beneficially interested, a partnership of which such a person is a member or another corporation, other than a small business corporation, of which such a person is a specified shareholder.

(9) Where a taxpayer has loaned or transferred property, either directly or indirectly, by means of a trust or by any other means whatever, to a trust in which another taxpayer is beneficially interested, the taxpayer shall, for the purposes of this section and sections 74.1 to 74.4, be deemed to have loaned or transferred the property, as the case may be, to or for the benefit of the other taxpayer.

(10) For the purposes of this section and sections 74.1 to 74.4, a taxpayer is beneficially interested in a trust if the taxpayer has any right (whether immediate or future, whether absolute or contingent or whether conditional on or subject to the exercise of a discretionary power by any person or persons) to receive any of the

ou en partie, des intérêts payables sur le prêt, les règles suivantes s'appliquent :

- a) pour l'application des articles 74.1, 74.2 et 74.4, le bien prêté par le tiers est réputé prêté par le particulier à la personne donnée ou au profit de cette personne;
- b) pour l'application des alinéas (2)b) et c), le montant des intérêts payés sur le prêt est réputé ne pas comprendre un montant payé par le particulier au tiers à titre d'intérêts sur le prêt.

(8) Pour l'application des paragraphes (6) et (7), «personne donnée» s'entend, en ce qui concerne un particulier,

- a) du conjoint du particulier ou d'une personne qui le devient par la suite;
- b) d'une personne de moins de 18 ans;
- c) d'une corporation — à l'exclusion d'une corporation exploitant une petite entreprise — qui compte parmi ses actionnaires une personne visée à l'alinéa a) ou b), une fiducie dans laquelle une telle personne a un droit de bénéficiaire, une société dont une telle personne est associée ou une autre corporation — à l'exclusion d'une corporation exploitant une petite entreprise — dont une telle personne est actionnaire désigné.

(9) Un contribuable qui prête ou transfère un bien, directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, à une fiducie dans laquelle un autre contribuable a un droit de bénéficiaire est réputé, pour l'application du présent article et des articles 74.1 à 74.4, avoir prêté ou transféré le bien, selon le cas, à l'autre contribuable ou à son profit.

(10) Pour l'application du présent article et des articles 74.1 à 74.4, un contribuable a un droit de bénéficiaire dans une fiducie s'il a le droit — immédiat ou futur, conditionnel ou non, ou soumis à l'exercice d'un pouvoir discrétionnaire par une ou plusieurs personnes — de recevoir tout ou partie du revenu ou du capital de la fidu-

"Specified person" defined

Transfers or loans to a trust

Beneficially interested

Définition de «personne donnée»

Transfert ou prêt à une fiducie

Droit de bénéficiaire

income or capital of the trust either directly from the trust or indirectly through one or more other trusts.

(11) Notwithstanding any other provision of this Act, sections 74.1 to 74.4 do not apply to a transfer or loan of property where it may reasonably be concluded that one of the main reasons for the transfer or loan, as the case may be, was to reduce the amount of tax that would, but for this provision, be payable under this Part on the income and gains derived from the property or from property substituted therefor.”

(2) Sections 74.1, 74.3 and 74.5 and subsection 74.2(1) of the said Act, as enacted by subsection (1), are applicable with respect to transfers of property made after May 22, 1985 and with respect to loans that are outstanding on or after May 22, 1985, except that in the case of a loan outstanding on May 22, 1985

(a) sections 74.1 and subsection 74.2(1) of the said Act, as enacted by subsection (1), are not applicable with respect to loans that are repaid before 1988; and

(b) in the case of a loan that is not repaid before 1988, section 74.1 of the said Act, as enacted by subsection (1), does not apply to any income or loss, as the case may be, relating to any period ending before 1988 and section 74.2 of the said Act, as enacted by subsection (1), does not apply to any disposition of property occurring before 1988.

(3) Subsection 74.2(2) of the said Act, as enacted by subsection (1), is applicable to the 1985 and subsequent taxation years.

(4) Section 74.4 of the said Act, as enacted by subsection (1), is applicable with respect to loans and transfers of property made after November 21, 1985.

39. (1) Subsection 75(1) of the said Act is repealed.

(2) All that portion of subsection 75(2) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

cie, soit directement de la fiducie, soit indirectement par le biais d'une ou de plusieurs fiducies.

(11) Nonobstant les autres dispositions de la présente loi, les articles 74.1 à 74.4 ne s'appliquent pas à un transfert ou prêt de biens lorsqu'il est raisonnable de conclure qu'un des principaux motifs du transfert ou prêt, selon le cas, consiste à réduire l'impôt qui, sans le présent paragraphe, serait payable en vertu de la présente partie sur le revenu et les gains dérivés du bien ou d'un bien y substitué.»

Opérations
factices

(2) L'article 74.1, le paragraphe 74.2(1) et les articles 74.3 et 74.5 de la même loi, édictés par le paragraphe (1), s'appliquent aux transferts de biens effectués après le 22 mai 1985 et aux prêts non remboursés le 22 mai 1985 ou après; toutefois, dans le cas d'un prêt non remboursé le 22 mai 1985,

a) l'article 74.1 et le paragraphe 74.2(1) de la même loi, édictés par le paragraphe (1), ne s'appliquent pas aux prêts remboursés avant 1988; et

b) si un prêt n'est pas remboursé avant 1988, l'article 74.1 de la même loi, édicté par le paragraphe (1), ne s'applique pas à un revenu ou une perte, selon le cas, qui se rapporte à une période se terminant avant 1988, et l'article 74.2 de la même loi, édicté par le paragraphe (1), ne s'applique pas à une disposition de biens effectuée avant 1988.

(3) Le paragraphe 74.2(2) de la même loi, édicté par le paragraphe (1), s'applique aux années d'imposition 1985 et suivantes.

(4) L'article 74.4 de la même loi, édicté par le paragraphe (1), s'applique aux prêts et transferts de biens effectués après le 21 novembre 1985.

39. (1) Le paragraphe 75(1) de la même loi est abrogé.

(2) Le passage du paragraphe 75(2) de la même loi qui suit l'alinéa b) est abrogé et remplacé par ce qui suit :

“any income or loss from the property or from property substituted therefor, any taxable capital gain or allowable capital loss from the disposition of the property or of property substituted therefor, shall, 5 during the lifetime of the person while he is resident in Canada be deemed to be income or a loss, as the case may be, or a taxable capital gain or allowable capital loss, as the case may be, of the person.” 10

(3) Paragraph 75(3)(a) of the said Act is repealed and the following substituted therefor:

“(a) by a trust governed by a registered pension fund or plan, an employees 15 profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan, a deferred profit sharing plan, a registered education savings plan, a registered 20 retirement income fund or an employee benefit plan;”

(4) Subsection (1) is applicable with respect to transfers of property made after May 22, 1985.

(5) Subsection (2) is applicable to the 1987 and subsequent taxation years.

(6) Subsection (3) is applicable to the 1986 and subsequent taxation years.

40. (1) Subsection 80.4(4) of the said Act 30 is repealed and the following substituted therefor:

“(4) For the purpose of computing the benefit under subsection (1) in a taxation year in respect of a home purchase loan or a home relocation loan and for the purpose of paragraph 110(1)(j), the amount of interest determined under paragraph (1)(a) shall not exceed the amount of interest that would have been determined there- 40 under if it had been computed at the prescribed rate in effect at the time the loan was received or the debt was incurred, as the case may be.”

(2) Subsection 80.4(6) of the said Act is 45 repealed and the following substituted therefor:

«tout revenu ou perte résultant des biens ou de biens y substitués ou tout gain en capital imposable ou toute perte en capital déductible provenant de la disposition des 5 biens ou de biens y substitués est réputé, 5 durant la vie de cette personne, pendant qu'elle réside au Canada, être un revenu ou une perte, selon le cas, ou un gain en capital imposable ou une perte en capital déductible, selon le cas, de cette personne.» 10

(3) L'alinéa 75(3)a) de la même loi est abrogé et remplacé par ce qui suit :

«a) par une fiducie régie par quelque caisse ou régime enregistré de pensions, régime de participation des employés 15 aux bénéfices, régime enregistré de prestations supplémentaires de chômage, régime de participation différée aux bénéfices, régime enregistré d'épargne-études, fonds enregistré de revenu de 20 retraite ou régime de prestations aux employés;»

(4) Le paragraphe (1) s'applique aux transferts de biens effectués après le 22 mai 25 1985.

(5) Le paragraphe (2) s'applique aux années d'imposition 1987 et suivantes.

(6) Le paragraphe (3) s'applique aux années d'imposition 1986 et suivantes.

40. (1) Le paragraphe 80.4(4) de la même 30 loi est abrogé et remplacé par ce qui suit :

«(4) Aux fins du calcul, dans une année d'imposition, de l'avantage visé au paragraphe (1) relativement à un prêt consenti pour l'achat d'une maison ou à un prêt à la 35 réinstallation et pour l'application de l'alinéa 110(1)(j), le montant des intérêts calculé conformément à l'alinéa (1)a) ne peut dépasser le montant des intérêts qui aurait été calculé conformément à cet alinéa s'il 40 avait été calculé au taux prescrit en vigueur au moment où le prêt a été reçu ou la dette contractée, selon le cas.»

(2) Le paragraphe 80.4(6) de la même loi est abrogé et remplacé par ce qui suit : 45

Interest on
loans for home
purchase or
relocation

Intérêts sur prêt
résidentiel et
sur prêt à la
réinstallation

Deemed new
home purchase
loans

“(6) For the purposes of this section, other than paragraph (3)(a) and subsection (5), where a home purchase loan or a home relocation loan of an individual has a term for repayment exceeding five years, the balance outstanding on the loan on the date that is five years from the day the loan was received or was last deemed by this subsection to have been received shall be deemed to be a new home purchase loan received by the individual on that date.”

(3) Subsections (1) and (2) are applicable to the 1985 and subsequent taxation years.

41. (1) Subsection 82(2) of the said Act is repealed and the following substituted therefor:

“(2) Where, by virtue of subsection 56(4) or sections 74 to 75, there is included in computing a taxpayer's income for a taxation year a dividend received by some other person, for the purposes of this section and sections 112 and 121, the dividend shall be deemed to have been received by the taxpayer.”

(2) Subsection (1) is applicable after May 21, 1985.

42. (1) Subsection 83(2.1) of the said Act is repealed.

(2) All that portion of subsection 83(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

“(3) Where at any particular time after 1974 a dividend has become payable by a corporation to shareholders of any class of shares of its capital stock, and subsection (1) or (2) would have applied to the dividend except that the election referred to therein was not made on or before the day on or before which the election was required by that subsection to be made, the election shall be deemed to have been made at the particular time or on the first day on which any part of the dividend was paid, whichever is the earlier, if”

Certain
dividends
deemed
received by
taxpayer

Late filed
elections

«(6) Pour l'application du présent article, à l'exception de l'alinéa (3)a) et du paragraphe (5), dans le cas d'un prêt consenti pour l'achat d'une maison ou d'un prêt à la réinstallation d'un particulier dont le délai de remboursement est supérieur à cinq ans, le solde dû sur le prêt à la date qui tombe cinq ans après la date de réception du prêt ou de dernière réception réputée du prêt en vertu du présent paragraphe est réputé être un nouveau prêt consenti pour l'achat d'une maison et reçu par le particulier à cette date.»

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1985 et suivantes.

41. (1) Le paragraphe 82(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Le dividende reçu par une personne, qui est inclus en vertu du paragraphe 56(4) ou des articles 74 à 75 dans le calcul du revenu d'un contribuable autre que cette personne pour une année d'imposition, est réputé reçu par le contribuable pour l'application du présent article et des articles 112 et 121.»

(2) Le paragraphe (1) s'applique après le 21 mai 1985.

42. (1) Le paragraphe 83(2.1) de la même loi est abrogé.

(2) Le passage du paragraphe 83(3) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«(3) Lorsque, à une date donnée après 1974, un dividende est devenu payable par une corporation aux actionnaires d'une catégorie d'actions de son capital-actions et que le paragraphe (1) ou (2) se serait appliqué au dividende si le choix y mentionné avait été fait au plus tard à la date où le choix devait, au plus tard, être fait en vertu de ce paragraphe, le choix est réputé avoir été fait à la date donnée ou au premier jour du versement d'une partie du dividende, si ce jour est antérieur, dans le cas où :»

Prêts résiden-
tiels et à la
réinstallation

Dividende
réputé reçu par
le contribuable

Production en
retard d'un
choix

(3) Subsections (1) and (2) are applicable with respect to dividends paid after May 23, 1985.

(3) Les paragraphes (1) et (2) s'appliquent aux dividendes versés après le 23 mai 1985.

43. (1) Subsection 84(8) of the said Act is repealed and the following substituted therefor:

43. (1) Le paragraphe 84(8) de la même loi est abrogé et remplacé par ce qui suit :

Application

“(8) Subsection (3) does not apply to deem a dividend to have been received by a shareholder of a public corporation where the shareholder is an individual resident in Canada who deals at arm's length with the corporation and the shares redeemed, acquired or cancelled are prescribed shares of the capital stock of the corporation.”

«(8) Le paragraphe (3) ne s'applique pas de façon qu'un dividende soit réputé avoir été reçu par un actionnaire d'une corporation publique lorsque celui-ci est un particulier résidant au Canada qui n'a aucun lien de dépendance avec la corporation et que les actions rachetées, acquises ou annulées sont des actions prescrites du capital-actions de la corporation.»

5 Non application du paragraphe (3)

(2) Subsection (1) is applicable to transactions and events occurring after May 23, 1985.

(2) Le paragraphe (1) s'applique aux opérations et événements qui ont lieu après le 23 mai 1985.

44. (1) Subsection 84.1(1) of the said Act is repealed and the following substituted therefor:

44. (1) Le paragraphe 84.1(1) de la même loi est abrogé et remplacé par ce qui suit :

Non-arm's length sale of shares

“84.1 (1) Where after May 22, 1985 a taxpayer resident in Canada (other than a corporation) disposes of shares that are capital property of the taxpayer (in this section referred to as the “subject shares”) of any class of the capital stock of a corporation resident in Canada (in this section referred to as the “subject corporation”) to another corporation (in this section referred to as the “purchaser corporation”) with which the taxpayer does not deal at arm's length and, immediately after the disposition, the subject corporation would be connected (within the meaning assigned by subsection 186(4) if the references therein to “payer corporation” and to “particular corporation” were read as “subject corporation” and “purchaser corporation” respectively) with the purchaser corporation,

“84.1 (1) Lorsque, après le 22 mai 1985, un contribuable qui réside au Canada (à l'exclusion d'une corporation) dispose d'actions qui sont des biens en immobilisation du contribuable — appelées «actions concernées» au présent article — d'une catégorie du capital-actions d'une corporation qui réside au Canada — appelée «ladite corporation» au présent article — en faveur d'une autre corporation — appelée «acheteur» au présent article — avec laquelle le contribuable a un lien de dépendance et que, immédiatement après la disposition, ladite corporation serait rattachée à l'acheteur, au sens du paragraphe 186(4) si les mentions «corporation payante» et «corporation donnée» y étaient respectivement remplacées par «ladite corporation» et «acheteur»,

Vente d'actions en cas de lien de dépendance

(a) where shares (in this section referred to as the “new shares”) of the purchaser corporation have been issued as consideration for the subject shares, in computing the paid-up capital, at any particular time after the issue of the new shares, in respect of any particular

a) d'une part, dans le cas où les actions de l'acheteur — appelées «nouvelles actions» au présent article — ont été émises en contrepartie des actions concernées, le montant calculé selon la formule suivante est déduit dans le calcul du capital versé, à une date postérieure à l'émission des nouvelles actions,

class of shares of the capital stock of the purchaser corporation, there shall be deducted an amount determined by the formula

$$(A - B) \times \frac{C}{A} \quad 5$$

where

A is the increase, if any, determined without reference to this section as it applies to the acquisition of the sub-10
ject shares, in the paid-up capital in respect of all shares of the capital stock of the purchaser corporation as a result of the issue of the new shares, 15

B is the amount, if any, by which the greater of

(i) the paid-up capital, immediately before the disposition, in respect of the subject shares, and 20

(ii) subject to paragraphs (2)(a) and (a.1), the adjusted cost base to the taxpayer, immediately before the disposition, of the subject shares, 25

exceeds the fair market value, immediately after the disposition, of any consideration (other than the new shares) received by the taxpayer from the purchaser corporation for the sub-30
ject shares, and

C is the increase, if any, determined without reference to this section as it applies to the acquisition of the sub-35
ject shares, in the paid-up capital in respect of the particular class of shares as a result of the issue of the new shares; and

(b) for the purposes of this Act, a dividend shall be deemed to have been paid 40
to the taxpayer by the purchaser corporation at the time of the disposition in an amount determined by the formula

$$(A + D) - (E + F) \quad 45$$

where

A is the increase, if any, determined without reference to this section as it applies to the acquisition of the sub-
ject shares, in the paid-up capital in

titre d'une catégorie donnée d'actions du capital-actions de l'acheteur :

$$(A - B) \times \frac{C}{A}$$

où

A représente le montant correspondant à l'augmentation éventuelle — conséquence de l'émission des nouvelles actions — du capital versé au titre de toutes les actions du capital-actions 10
de l'acheteur, calculée sans appliquer le présent article à l'acquisition des actions concernées,

B représente l'excédent éventuel du plus élevé : 15

(i) du capital versé au titre des actions concernées immédiatement avant la disposition,

(ii) du prix de base rajusté des actions concernées pour le contri-20
buable immédiatement avant la disposition, sous réserve des alinéas (2)a) et a.1),

sur la juste valeur marchande, immédiatement après la disposition, de 25
toute contrepartie, à l'exclusion des nouvelles actions, reçue de l'acheteur par le contribuable pour les actions concernées,

C représente le montant correspondant 30
à l'augmentation éventuelle — conséquence de l'émission des nouvelles actions — du capital versé au titre de la catégorie donnée d'actions, calculée sans appliquer le présent article à 35
l'acquisition des actions concernées;

b) d'autre part, pour l'application de la présente loi, un dividende, calculé selon la formule suivante, est réputé avoir été versé par l'acheteur au contribuable à la 40
date de la disposition :

$$(A + D) - (E + F)$$

où

A représente le montant correspondant à l'augmentation éventuelle — consé-45
quence de l'émission des nouvelles actions — du capital versé au titre de toutes les actions du capital-actions de l'acheteur, calculée sans appliquer

respect of all shares of the capital stock of the purchaser corporation as a result of the issue of the new shares,

D is the fair market value, immediately after the disposition, of any consideration (other than the new shares) received by the taxpayer from the purchaser corporation for the subject shares,

E is the greater of

(i) the paid-up capital, immediately before the disposition, in respect of the subject shares, and

(ii) subject to paragraphs (2)(a) and (a.1), the adjusted cost base to the taxpayer, immediately before the disposition, of the subject shares, and

F is the aggregate of all amounts each of which is an amount required to be deducted by the purchaser corporation under paragraph (a) in computing the paid-up capital in respect of any class of shares of its capital stock by virtue of the acquisition of the subject shares."

(2) Paragraph 84.1(2)(a) of the said Act is repealed and the following substituted therefor:

"(a) where a share disposed of by the taxpayer was acquired by him before 1972 or was a share substituted for such a share, the adjusted cost base to the taxpayer of the share shall be deemed to be the amount that would be its adjusted cost base to him if the *Income Tax Application Rules, 1971* were read without reference to subsections 26(3) and (7) thereof;

(a.1) where a share disposed of by the taxpayer was acquired by him after 1971 from a person with whom he was not dealing at arm's length, or was a share substituted for such a share, the adjusted cost base to the taxpayer of the share shall be deemed to be the amount, if any, by which its adjusted cost base to him, otherwise determined, exceeds the aggregate of

le présent article à l'acquisition des actions concernées,

D représente la juste valeur marchande, immédiatement après la disposition, de toute contrepartie, à l'exclusion des nouvelles actions, reçue de l'acheteur par le contribuable pour les actions concernées,

E représente le plus élevé :

(i) du capital versé au titre des actions concernées immédiatement avant la disposition,

(ii) du prix de base rajusté des actions concernées pour le contribuable immédiatement avant la disposition, sous réserve des alinéas (2)a) et a.1),

F représente le total des montants dont chacun représente un montant que l'acheteur doit déduire selon l'alinéa a) dans le calcul du capital versé au titre d'une catégorie d'actions de son capital-actions à cause de l'acquisition des actions concernées."

(2) L'alinéa 84.1(2)a) de la même loi est abrogé et remplacé par ce qui suit :

«a) dans le cas où une action dont dispose un contribuable a été acquise par celui-ci avant 1972 ou était une action substituée à une telle action, le prix de base rajusté de l'action pour le contribuable est réputé être le montant qui serait le prix de base rajusté de l'action pour le contribuable s'il n'était pas tenu compte des paragraphes 26(3) et (7) des *Règles de 1971 concernant l'application de l'impôt sur le revenu*;

a.1) dans le cas où une action dont dispose le contribuable a été acquise par celui-ci après 1971 d'une personne avec qui il avait un lien de dépendance ou était une action substituée à une telle action, le prix de base rajusté de l'action pour le contribuable est réputé être l'excédent éventuel du prix de base rajusté de l'action pour le contribuable, déter-

(i) where the share or a share for which the share was substituted was owned at the end of 1971 by a person with whom the taxpayer did not deal at arm's length, the amount in respect of such share equal to the amount, if any, by which the share's fair market value on valuation day (within the meaning assigned by section 24 of the *Income Tax Application Rules, 1971*) exceeds the actual cost (within the meaning assigned by subsection 26(13) of those Rules) of the share, on January 1, 1972, to that person, and

(ii) the aggregate of all amounts each of which is an amount determined after 1984 under subparagraph 40(1)(a)(i) in respect of a previous disposition of the share or a share for which the share was substituted (or such lesser amount as is established by the taxpayer to be the amount in respect of which a deduction under section 110.6 was claimed) by the taxpayer or an individual with whom the taxpayer did not deal at arm's length;

(a.2) for the purposes of paragraph (a.1), where a corporation (in this paragraph referred to as the "issuing corporation") issues previously unissued shares of a class of its capital stock (in this paragraph referred to as the "new shares") to a taxpayer, the taxpayer and the issuing corporation shall be deemed not to have been dealing with each other at arm's length at the time the new shares were acquired by the taxpayer;"

miné par ailleurs, sur le total des montants suivants :

(i) si l'action ou une action à laquelle l'action a été substituée appartenait à la fin de 1971 à une personne avec qui le contribuable avait un lien de dépendance, le montant au titre de cette action égal à l'excédent de la juste valeur marchande de l'action au jour de l'évaluation (au sens de l'article 24 des *Règles de 1971 concernant l'application de l'impôt sur le revenu*) sur le coût effectif (au sens du paragraphe 26(13) des mêmes règles) de l'action pour cette personne le 1^{er} janvier 1972,

(ii) le total des montants dont chacun représente un montant calculé après 1984 selon le sous-alinéa 40(1)a)(i) dans le cas d'une disposition antérieure de l'action ou d'une action à laquelle l'action a été substituée (ou le montant moins élevé que le contribuable indique comme montant à l'égard duquel il demande une déduction selon l'article 110.6) par le contribuable ou par un particulier avec qui le contribuable avait un lien de dépendance;

a.2) pour l'application de l'alinéa a.1), lorsqu'une corporation — appelée « corporation émettrice » au présent alinéa — émet des actions non émises antérieurement d'une catégorie de son capital-actions — appelées « nouvelles actions » au présent alinéa — à un contribuable, celui-ci et la corporation émettrice sont réputés avoir eu un lien de dépendance au moment où le contribuable a acquis les nouvelles actions;»

(3) Subsection 84.1(3) of the said Act is repealed and the following substituted therefor:

(3) Le paragraphe 84.1(3) de la même loi est abrogé et remplacé par ce qui suit :

“(3) In computing the paid-up capital at any time after May 22, 1985 in respect of any class of shares of the capital stock of a corporation, there shall be added an amount equal to the lesser of

(a) the amount, if any, by which

«(3) Le moindre des montants suivants doit être ajouté dans le calcul du capital versé, à une date donnée postérieure au 22 mai 1985, au titre d'une catégorie d'actions du capital-actions d'une corporation :

a) l'excédent éventuel

Majoration du capital versé

Addition to paid-up capital

(i) the aggregate of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of the class paid after May 22, 1985 and before that time by the corporation 5

exceeds

(ii) the aggregate of such dividends that would be determined under subparagraph (i) if this Act were read without reference to paragraph (1)(a), and 10

(b) the aggregate of all amounts each of which is an amount required by paragraph (1)(a) to be deducted in computing the paid-up capital in respect of that class of shares after May 22, 1985 and before that time.” 15

(4) Subsections (1) to (3) are applicable in respect of dispositions made after May 22, 20 1985. (4) Les paragraphes (1) à (3) s'appliquent aux dispositions effectuées après le 22 mai 1985. 20

45. (1) Section 85 of the said Act is amended by adding thereto, immediately after subsection (2) thereof, the following subsection: 25 45. (1) L'article 85 de la même loi est modifié par adjonction, après le paragraphe (2), de ce qui suit :

Computation of
paid-up capital

“(2.1) Where subsection (1) or (2) has been applicable in respect of a disposition to a corporation, after November 21, 1985, of property (other than a disposition of property in respect of which section 84.1 30 or 212.1 applies) by a person or partnership (in this subsection referred to as the “taxpayer”), the following rules apply:

(a) in computing the paid-up capital, at any time after the disposition of the 35 property, in respect of any particular class of shares of the capital stock of the corporation, there shall be deducted an amount determined by the formula

$$(A - B) \times \frac{C}{A} \quad 40$$

where

A is the increase, if any, determined without reference to this section as it applies to the disposition of the prop- 45 erty, in the paid-up capital in respect of all the shares of the capital stock of the corporation as a result of the

(i) du total des montants dont chacun représente un montant réputé en vertu du paragraphe 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie que la corporation a 5 versé après le 22 mai 1985 et avant la date donnée

sur

(ii) le total de ces dividendes, calculé selon le sous-alinéa (i), abstraction 10 faite de l'alinéa (1)a);

b) le total des montants dont chacun représente un montant à déduire selon l'alinéa (1)a) dans le calcul du capital versé au titre de cette catégorie d'ac- 15 tions après le 22 mai 1985 et avant la date donnée.»

«(2.1) Les règles suivantes s'appliquent lorsque le paragraphe (1) ou (2) s'applique 25 à une disposition de bien qu'une personne ou société (appelée «contribuable» au présent paragraphe) effectue en faveur d'une corporation après le 21 novembre 1985 (à l'exception d'une disposition de bien à 30 laquelle l'article 84.1 ou 212.1 s'applique) :

a) le montant calculé selon la formule suivante est déduit dans le calcul du capital versé, à une date postérieure à la 35 disposition du bien, au titre d'une catégorie donnée du capital-actions de la corporation :

$$(A - B) \times \frac{C}{A} \quad 40$$

où

A représente l'augmentation éventuelle — conséquence de l'acquisition du bien par la corporation — du capital versé au titre de toutes les actions du 45 capital-actions de la corporation, cal-

Calcul du
capital versé

acquisition by the corporation of the property,

B is the amount, if any, by which the corporation's cost of the property, immediately after the acquisition, 5 determined under subsection (1) or (2), as the case may be, exceeds the fair market value, immediately after the acquisition, of any consideration (other than shares of the capital stock 10 of the corporation) received by the taxpayer from the corporation for the property, and

C is the increase, if any, determined without reference to this section as it 15 applies to the disposition of the property, in the paid-up capital in respect of the particular class of shares as a result of the acquisition by the corporation of the property; and 20

(b) in computing the paid-up capital, at any time after November 21, 1985, in respect of any class of shares of the capital stock of a corporation, there shall be added an amount equal to the 25 lesser of

(i) the amount, if any, by which

(A) the aggregate of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to 30 be a dividend on shares of that class paid after November 21, 1985 and before that time by the corporation exceeds

(B) the aggregate of such dividends 35 that would be determined under clause (A) if the Act were read without reference to paragraph (a), and

(ii) the aggregate of all amounts each 40 of which is an amount required by paragraph (a) to be deducted in computing the paid-up capital in respect of that class of shares after November 21, 1985 and before that time." 45

culée sans appliquer le présent article à la disposition du bien,

B représente l'excédent éventuel du coût du bien pour la corporation immédiatement après l'acquisition 5 calculé en vertu du paragraphe (1) ou (2), selon le cas, sur la juste valeur marchande, immédiatement après l'acquisition, de toute contrepartie (à l'exclusion des actions du capital- 10 actions de la corporation) que le contribuable a reçue de la corporation pour le bien,

C représente l'augmentation éventuelle — conséquence de l'acquisition du 15 bien par la corporation — du capital versé au titre de la catégorie donnée d'actions, calculée sans appliquer le présent article à la disposition du bien; 20

b) le moindre des montants suivants est ajouté dans le calcul du capital versé, à une date quelconque postérieure au 21 novembre 1985, au titre d'une catégorie d'actions du capital-actions d'une corpo- 25 ration :

(i) l'excédent éventuel

(A) du total des montants dont chacun représente un montant réputé en vertu du paragraphe 30 84(3), (4) ou (4.1) être un dividende sur des actions de cette catégorie que la corporation a versé après le 21 novembre 1985 et avant cette date quelconque 35

sur

(B) le total de ces dividendes calculé selon la division (A), abstraction faite de l'alinéa a),

(ii) le total des montants dont chacun 40 représente un montant à déduire selon l'alinéa a) dans le calcul du capital versé au titre de cette catégorie d'actions après le 21 novembre 1985 et avant cette date quelconque." 45

(2) Subsection (1) is applicable for the purposes of computing paid-up capital of shares after November 21, 1985.

(2) Le paragraphe (1) s'applique après le 21 novembre 1985 aux fins du calcul du capital versé au titre des actions.

46. (1) Subsection 87(2) of the said Act is amended by adding thereto, immediately after paragraph (j.5) thereof, the following paragraphs:

Continuing corporation

“(j.6) for the purposes of paragraph 12(1)(x), subsection 13(7.4), subparagraph 13(21)(f)(ii.2), paragraphs 20(1)(hh) and 53(2)(s) and subsection 53(2.1), the new corporation shall be deemed to be the same corporation as, 10 and a continuation of, each predecessor corporation;

Idem

(j.7) for the purposes of sections 74.4 and 74.5, the new corporation shall be deemed to be the same corporation as, 15 and a continuation of, each predecessor corporation;”

(2) Subsection 87(2) of the said Act is further amended by adding thereto the following paragraph: 20

Continuation of corporation

“(qq) for the purpose of computing the new corporation's investment tax credit and employment tax credit at the end of any taxation year, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation.” 25

(3) Paragraph 87(2)(j.6) of the said Act, as enacted by subsection (1), is applicable to the 1985 and subsequent taxation years. 30

(4) Paragraph 87(2)(j.7) of the said Act, as enacted by subsection (1), is applicable with respect to amalgamations occurring after November 21, 1985.

(5) Subsection (2) is applicable with respect to amalgamations occurring after May 23, 1985. 35

47. (1) Subsection 88(1) of the said Act is amended by adding thereto, immediately after paragraph (e.2) thereof, the following paragraphs: 40

“(e.3) for the purpose of computing the parent's investment tax credit at the end of any particular taxation year ending after the subsidiary was wound up, 45

(i) property acquired and expenditures made by the subsidiary in a

46. (1) Le paragraphe 87(2) de la même loi est modifié par insertion, après l'alinéa j.5), de ce qui suit :

«j.6) pour l'application de l'alinéa 12(1)x), du paragraphe 13(7.4), du sous-alinéa 13(21)f)(ii.2), des alinéas 20(1)hh) et 53(2)s) et du paragraphe 53(2.1), la nouvelle corporation est réputée être la même corporation que chaque corporation remplacée et en être 10 la continuation;

j.7) pour l'application des articles 74.4 et 74.5, la nouvelle corporation est réputée être la même corporation que chaque corporation remplacée et en être la 15 continuation;»

(2) Le paragraphe 87(2) de la même loi est modifié par adjonction de ce qui suit :

«qq) aux fins du calcul du crédit d'impôt à l'investissement et du crédit d'im- 20 pôt à l'emploi de la nouvelle corporation à la fin d'une année d'imposition, la nouvelle corporation est réputée être la même corporation que chaque corporation remplacée et en être la continua- 25 tion.»

(3) L'alinéa 87(2)j.6) de la même loi, édicté par le paragraphe (1), s'applique aux 30 années d'imposition 1985 et suivantes.

(4) L'alinéa 87(2)j.7) de la même loi, 30 édicté par le paragraphe (1), s'applique aux fusions qui ont lieu après le 21 novembre 1985.

(5) Le paragraphe (2) s'applique aux fusions qui ont lieu après le 23 mai 1985. 35

47. (1) Le paragraphe 88(1) de la même loi est modifié par insertion, après l'alinéa e.2), de ce qui suit :

«e.3) aux fins du calcul du crédit d'impôt à l'investissement de la corporation 40 mère à la fin d'une année d'imposition donnée se terminant après la liquidation de la filiale :

Continuation des corporations remplacées

Idem

taxation year (in this paragraph referred to as the "expenditure year") shall be deemed to have been acquired or made, as the case may be, by the parent in its taxation year in which the expenditure year of the subsidiary ended, and

(ii) there shall be added to the amounts otherwise determined for the purposes of paragraphs (f) to (k) of the definition "investment tax credit" in subsection 127(9) in respect of the parent for the particular year

(A) the amounts that would have been determined in respect of the subsidiary for the purposes of paragraph (f) of the definition "investment tax credit" in subsection 127(9) for its taxation year in which it was wound up if the reference therein to "a preceding taxation year" were read as a reference to "the year or a preceding taxation year", and

(B) the amounts determined in respect of the subsidiary for the purposes of paragraphs (g) to (k) of the definition "investment tax credit" in subsection 127(9) for its taxation year in which it was wound up

to the extent that such amounts determined in respect of the subsidiary may reasonably be considered to have been included in computing the parent's investment tax credit at the end of the particular year by virtue of subparagraph (i);

(e.4) for the purpose of computing the parent's employment tax credit at the end of any particular taxation year ending after the subsidiary was wound up,

(i) the subsidiary's taxpayer employment credits for any taxation year (in this paragraph referred to as the "employment year") and any amounts required to be added by virtue of subsection 127(15) in computing the subsidiary's employment tax credit at the end of the employ-

(i) les biens acquis et les dépenses faites par la filiale dans une année d'imposition — appelée «année de la dépense» au présent alinéa — sont réputés avoir été respectivement acquis et faites par la corporation mère dans l'année d'imposition de celle-ci au cours de laquelle s'est terminée l'année de la dépense de la filiale, et

(ii) sont ajoutés aux montants calculés par ailleurs pour l'application des alinéas f) à k) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9) à l'égard de la corporation mère pour l'année donnée :

(A) les montants qui auraient été calculés à l'égard de la filiale pour l'application de l'alinéa f) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9) pour l'année d'imposition de cette filiale au cours de laquelle elle a été liquidée, si la mention «une année d'imposition antérieure» à cet alinéa était remplacée par la mention «l'année ou une année d'imposition antérieure», et

(B) les montants calculés à l'égard de la filiale pour l'application des alinéas g) à k) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9) pour l'année d'imposition de cette filiale au cours de laquelle elle a été liquidée, dans la mesure où il est raisonnable de considérer que les montants calculés à l'égard de la filiale ont été inclus dans le calcul du crédit d'impôt à l'investissement de la corporation mère à la fin de l'année donnée à cause du sous-alinéa (i);

e.4) aux fins du calcul du crédit d'impôt à l'emploi de la corporation mère à la fin d'une année d'imposition donnée se terminant après la liquidation de la filiale :

(i) les crédits à l'emploi de la filiale pour une année d'imposition — appelée «année du crédit» au présent alinéa — et les montants à ajouter, à cause

ment year shall be deemed to be taxpayer employment credits of the parent for, and amounts required to be added by virtue of subsection 127(15) in computing the parent's employment tax credit at the end of, its taxation year in which the employment year of the subsidiary ended, and

(ii) there shall be added to the amounts otherwise determined under paragraphs 127(16)(c) and (d) in respect of the parent for the particular taxation year, the amounts that would have been determined under those paragraphs in respect of the subsidiary for its taxation year in which it was wound-up if the reference in paragraph 127(16)(c) to "the five immediately preceding taxation years" were read as a reference to "that taxation year or the five immediately preceding taxation years" to the extent that such amounts determined in respect of the subsidiary may reasonably be considered to be in respect of a taxpayer employment credit or an amount required to be added by virtue of subsection 127(15) that is included in computing the parent's employment tax credit at the end of the particular year by virtue of subparagraph (i);"

du paragraphe 127(15), dans le calcul du crédit d'impôt à l'emploi de la filiale à la fin de l'année du crédit sont réputés être respectivement les crédits à l'emploi de la corporation mère pour l'année d'imposition de celle-ci au cours de laquelle s'est terminée l'année du crédit de la filiale et les montants à ajouter, à cause du paragraphe 127(15), dans le calcul du crédit d'impôt à l'emploi de la corporation mère à la fin de l'année d'imposition de celle-ci au cours de laquelle s'est terminée l'année du crédit de la filiale, et

(ii) sont ajoutés aux montants calculés par ailleurs selon les alinéas 127(16)c) et d) à l'égard de la corporation mère pour l'année d'imposition donnée, les montants qui auraient été calculés selon ces alinéas à l'égard de la filiale pour l'année d'imposition de celle-ci au cours de laquelle elle a été liquidée si la mention «l'une quelconque des cinq années d'imposition précédentes» à l'alinéa 127(16)c) était remplacée par la mention «cette année d'imposition ou pour les cinq années d'imposition précédentes», dans la mesure où il est raisonnable de considérer que ces montants, calculés à l'égard de la filiale, se rapportent à un crédit à l'emploi ou à un montant à ajouter à cause du paragraphe 127(15), inclus dans le calcul du crédit d'impôt à l'emploi de la corporation mère à la fin de l'année donnée à cause du sous-alinéa (i);»

(2) Subparagraphs 88(2)(b)(i.1) to (iv) of the said Act are repealed and the following substituted therefor:

“(ii) the portion of the winding-up dividend equal to the lesser of the corporation's pre-1972 capital surplus on hand immediately before that time and the amount by which the winding-up dividend exceeds

(A) the portion thereof in respect of which the corporation has made an election under subsection 83(2), or

(2) Les sous-alinéas 88(2)b)(i.1) à (iv) de la même loi sont abrogés et remplacés par ce qui suit :

«(ii) est réputée ne pas être un dividende la partie du dividende de liquidation qui correspond au moindre du surplus de capital en main avant 1972 de la corporation immédiatement avant cette date ou de l'excédent du dividende de liquidation sur, selon le cas,

(A) la partie de ce dividende à l'égard de laquelle la corporation

(B) the portion thereof in respect of which the corporation has made an election under subsection 133(7.1), as the case may be, shall be deemed not to be a dividend, 5
 (iii) notwithstanding paragraph 89(1)(j), the winding-up dividend, to the extent that it exceeds the aggregate of the portion thereof deemed by subparagraph (i) to be a separate 10 dividend for all purposes and the portion deemed by subparagraph (ii) not to be a dividend, shall be deemed to be a separate dividend that is a taxable dividend, and 15
 (iv) each person who held any of the issued shares of that class at the particular time shall be deemed to have received that proportion of any separate dividend determined under sub- 20 paragraph (i) or (iii) that the number of shares of that class held by him immediately before the particular time is of the number of issued shares of that class outstanding immediately 25 before that time."

(3) Subsection (1) is applicable with respect to windings-up commencing after May 23, 1985.

(4) Subsection (2) is applicable with 30 respect to winding-up dividends paid after May 23, 1985.

48. (1) Paragraph 89(1)(b) of the said Act is amended by striking out the word "and" at the end of subparagraph (iii) there- 35 of and by repealing subparagraph (iv) thereof and substituting the following therefor:

"(iv) the amount, if any, by which the aggregate of

(A) all amounts each of which is 40 the proceeds of a life insurance policy of which the corporation was a beneficiary on or before June 28, 1982 received by the corporation in the period and after 1971 in conse- 45 quence of the death of any person, and

fait le choix prévu au paragraphe 83(2),

(B) la partie de ce dividende à l'égard de laquelle la corporation fait le choix prévu au paragraphe 5 133(7.1),

(iii) par dérogation à l'alinéa 89(1)(j), le dividende de liquidation est réputé être un dividende distinct qui est un dividende imposable, dans la mesure 10 où il dépasse le total de la partie de ce dividende réputée, en vertu du sous-alinéa (i), être un dividende distinct à toutes fins et de la partie réputée, en vertu du sous-alinéa (ii), ne pas être 15 un dividende,

(iv) chaque personne détenant une ou plusieurs actions émises de cette catégorie à la date donnée est réputée avoir reçu un montant correspondant 20 au produit obtenu en multipliant tout dividende distinct, calculé selon le sous-alinéa (i) ou (iii), par le rapport entre le nombre d'actions de cette catégorie qu'elle détenait immédiate- 25 ment avant la date donnée et le nombre d'actions émises de cette catégorie en circulation immédiatement avant cette date."

(3) Le paragraphe (1) s'applique aux 30 liquidations qui commencent après le 23 mai 1985.

(4) Le paragraphe (2) s'applique aux divi- 35 dendes de liquidation versés après le 23 mai 1985.

48. (1) L'alinéa 89(1)(b) de la même loi est modifié par suppression du mot «et» à la fin du sous-alinéa (iii) et par abrogation du sous-alinéa (iv) qui est remplacé par ce qui 40 suit :

«(iv) de l'excédent éventuel du total :

(A) des montants dont chacun représente le produit d'une police d'assurance-vie dont la corporation était bénéficiaire au plus tard le 28 45 juin 1982, que la corporation a reçu au cours de la période et après 1971 par suite du décès d'une personne, et

(B) all amounts each of which is the proceeds of a life insurance policy of which the corporation was not a beneficiary on or before June 28, 1982 received by the corporation in the period and after May 23, 1985 in consequence of the death of any person

exceeds the aggregate of all amounts each of which is the adjusted cost basis (within the meaning assigned by paragraph 148(9)(a)) of a policy referred to in clause (A) or (B) to the corporation immediately before that person's death, and
(v) the amount of the corporation's life insurance capital dividend account immediately before May 24, 1985,"

(B) des montants dont chacun représente le produit d'une police d'assurance-vie dont la corporation n'était pas bénéficiaire au plus tard le 28 juin 1982, que la corporation a reçu au cours de la période et après le 23 mai 1985 par suite du décès d'une personne,

sur le total des montants dont chacun représente le coût de base rajusté (au sens de l'alinéa 148(9)a)) d'une police visée à la division (A) ou (B) pour la corporation immédiatement avant le décès de cette personne, et
(v) du montant du compte de dividende en capital d'assurance-vie de la corporation immédiatement avant le 24 mai 1985,"

(2) Paragraph 89(1)(b.2) of the said Act is repealed.

(2) L'alinéa 89(1)b.2) de la même loi est abrogé.

(3) Clause 89(1)(c)(ii)(C) of the said Act is repealed and the following substituted therefor:

(3) La division 89(1)c)(ii)(C) de la même loi est abrogée et remplacée par ce qui suit :

"(C) where the particular time is after March 31, 1977, an amount equal to the paid-up capital in respect of that class of shares at the particular time, computed without reference to the provisions of this Act except subsection 66.3(2), sections 84.1 and 84.2, subsections 85(2.1), 87(3), 87(9), 192(4.1) and 194(4.1) and section 212.1, and"

«(C) lorsque la date donnée tombe après le 31 mars 1977, une somme égale au capital versé à la date donnée au titre de cette catégorie d'actions calculé sans tenir compte des dispositions de la présente loi, à l'exception du paragraphe 66.3(2), des articles 84.1 et 84.2, des paragraphes 85(2.1), 87(3), 87(9), 192(4.1) et 194(4.1) et de l'article 212.1, et»

(4) Subparagraph 89(1)(j)(i) of the said Act is repealed and the following substituted therefor:

(4) Le sous-alinéa 89(1)j)(i) de la même loi est abrogé et remplacé par ce qui suit :

"(i) a dividend in respect of which the corporation paying the dividend has elected in accordance with subsection 83(1) as it read prior to 1979 or in accordance with subsection 83(2), and"

«(i) qu'un dividende relativement auquel la corporation qui le verse a fait soit le choix prévu au paragraphe 83(1) tel que libellé avant 1979, soit le choix prévu au paragraphe 83(2), et»

(5) Subsection 89(1.1) of the said Act is repealed and the following substituted therefor:

(5) Le paragraphe 89(1.1) de la même loi est abrogé et remplacé par ce qui suit :

"(1.1) Where at any particular time after March 31, 1977 a corporation that

«(1.1) Lorsque, à une date donnée postérieure au 31 mars 1977, une corporation

Capital dividend account where control acquired

Calcul du compte de dividende en capital en cas d'acquisition de contrôle

was, at a previous time, a private corporation controlled directly or indirectly in any manner whatever by one or more non-resident persons becomes a Canadian-controlled private corporation (otherwise than by virtue of a change in the residence of one or more of its shareholders), in computing the corporation's capital dividend account at any time after the particular time there shall be deducted the amount of the corporation's capital dividend account immediately before the particular time."

(6) Subsections (1) to (3) and (5) are applicable after May 23, 1985.

(7) Subsection (4) is applicable in respect of dividends paid after May 23, 1985.

49. (1) Subsection 92(1) of the said Act is repealed and the following substituted therefor:

"92. (1) In computing, at any time in a taxation year, the adjusted cost base to a taxpayer resident in Canada of any share owned by him of the capital stock of a foreign affiliate of the taxpayer,

(a) there shall be added any amount required to be included in respect of that share by virtue of subsection 91(1) or (3) in computing his income for the year or any preceding taxation year (or that would have been so required to be included but for sections 74 to 75); and

(b) there shall be deducted in respect of that share

(i) any amount deducted by him by virtue of subsection 91(2) or (4), and
(ii) any dividend received by him before that time to the extent of the amount deducted by him in respect thereof by virtue of subsection 91(5)

in computing his income for the year or any preceding taxation year (or that would have been deductible by him but for sections 74 to 75)."

qui était, à une date antérieure, une corporation privée contrôlée directement ou indirectement de quelque façon que ce soit par une ou plusieurs personnes non résidentes devient une corporation privée dont le contrôle est canadien (autrement qu'à cause d'un changement de résidence d'un ou de plusieurs de ses actionnaires), le montant de son compte de dividende en capital immédiatement avant la date donnée doit être déduit dans le calcul du compte de dividende en capital de la corporation à une date quelconque postérieure à la date donnée."

(6) Les paragraphes (1) à (3) et (5) s'appliquent après le 23 mai 1985.

(7) Le paragraphe (4) s'applique aux dividendes versés après le 23 mai 1985.

49. (1) Le paragraphe 92(1) de la même loi est abrogé et remplacé par ce qui suit :

"92. (1) Dans le calcul, à une date quelconque d'une année d'imposition, du prix de base rajusté, pour un contribuable qui réside au Canada, d'une action lui appartenant du capital-actions d'une corporation étrangère affiliée de ce contribuable,

a) d'une part, est ajoutée toute somme relative à l'action, à inclure en vertu du paragraphe 91(1) ou (3) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure (ou qui serait à inclure dans ce calcul n'eussent été les articles 74 à 75);

b) d'autre part, sont déduits relativement à l'action,

(i) toute somme qu'il a déduite en vertu du paragraphe 91(2) ou (4), et
(ii) tout dividende qu'il a reçu avant cette date, jusqu'à concurrence du montant qu'il a déduit relativement à ce dividende en vertu du paragraphe 91(5),

dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure, (ou qui auraient été déductibles par lui n'eussent été les articles 74 à 75)."

Prix de base rajusté d'une action d'une corporation étrangère affiliée

Adjusted cost base of share of foreign affiliate

(2) Subsection (1) is applicable after May 21, 1985.

(2) Le paragraphe (1) s'applique après le 21 mai 1985.

50. (1) Subsection 94(5) of the said Act is repealed and the following substituted therefor:

50. (1) Le paragraphe 94(5) de la même loi est abrogé et remplacé par ce qui suit :

Adjusted cost
base of capital
interest in trust

“(5) In computing, at any time in a taxation year, the adjusted cost base to a taxpayer resident in Canada of a capital interest in a trust to which paragraph (1)(d) applies,

«(5) Dans le calcul, à une date quelconque d'une année d'imposition, du prix de base rajusté pour un contribuable qui réside au Canada d'une participation au capital d'une fiducie à laquelle s'applique l'alinéa (1)d),

5 Prix de base
rajusté d'une
participation au
capital d'une
fiducie

(a) there shall be added any amount required by subsection 91(1) or (3) to be included in computing his income for the year or any preceding taxation year (or that would have been so required to be included but for sections 74 to 75) in respect of that interest; and

a) d'une part, est ajoutée toute somme relative à cette participation, à inclure en vertu du paragraphe 91(1) ou (3) dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure (ou qui serait à inclure dans ce calcul n'eussent été les articles 74 à 75);

(b) there shall be deducted any amount deducted by him by virtue of subsection 91(2) or (4) in computing his income for the year or any preceding taxation year (or that would have been so deductible by him but for sections 74 to 75) in respect of that interest.”

b) d'autre part, est déduite toute somme relative à cette participation, qu'il a déduite en vertu du paragraphe 91(2) ou (4) dans le calcul de son revenu pour l'année ou pour une année d'imposition antérieure (ou qui serait déductible par lui n'eussent été les articles 74 à 75).»

(2) Subsection (1) is applicable after May 21, 1985.

(2) Le paragraphe (1) s'applique après le 21 mai 1985.

51. (1) Subsection 104(5.1) of the said Act is repealed.

51. (1) Le paragraphe 104(5.1) de la même loi est abrogé.

(2) Paragraph 104(6)(b) of the said Act is repealed and the following substituted therefor:

(2) L'alinéa 104(6)b) de la même loi est abrogé et remplacé par ce qui suit :

“(b) in any other case, such part of the amount that would, but for this subsection, subsection (12) and, where the trust is a trust described in paragraph (4)(a), subsections (4), (5) and 107(4), be its income for the year as was payable in the year to a beneficiary or was included in computing the income of a beneficiary for the year by virtue of subsection 105(2).”

«b) dans les autres cas, la partie de la somme qui serait son revenu pour l'année sans le présent paragraphe et le paragraphe (12) et, s'il s'agit d'une fiducie visée à l'alinéa (4)a), sans les paragraphes (4), (5) et 107(4), partie qui était payable dans l'année à un bénéficiaire ou a été incluse dans le calcul du revenu d'un bénéficiaire pour l'année en vertu du paragraphe 105(2).»

(3) Subparagraph 104(8)(e)(i) of the said Act is repealed and the following substituted therefor:

(3) Le sous-alinéa 104(8)e)(i) de la même loi est abrogé et remplacé par ce qui suit :

“(i) the amount included in computing the income of the trust for the taxation year by virtue of a deemed disposition after November 12, 1981 under subsection (4), (5) or 107(4)” 5

«(i) du montant inclus dans le calcul du revenu de la fiducie pour l'année d'imposition à cause d'une disposition réputée, en vertu du paragraphe (4), (5) ou 107(4), effectuée après le 12 5 novembre 1981.»

(4) Subparagraph 104(8)(f)(i) of the said Act is repealed and the following substituted therefor:

(4) Le sous-alinéa 104(8)f(i) de la même loi est abrogé et remplacé par ce qui suit :

“(i) the designated income of the trust for the taxation year (other than 10 any designated income that arose by virtue of a deemed disposition after November 12, 1981 under subsection (4), (5) or 107(4) where the trust is a trust described in paragraph (4)(a), 15 or any designated income that arose by virtue of a disposition before November 13, 1981 where the trust is a testamentary trust)”

«(i) du revenu désigné de la fiducie pour l'année d'imposition (à l'except- 10 tion d'un revenu désigné résultant d'une disposition réputée, en vertu du paragraphe (4), (5) ou 107(4), effectuée après le 12 novembre 1981 s'il s'agit d'une fiducie visée à l'alinéa 15 (4)a, et d'un revenu désigné résultant d'une disposition effectuée avant le 13 novembre 1981 s'il s'agit d'une fiducie testamentaire)»

(5) Subsection 104(21) of the said Act is 20 repealed and the following substituted therefor:

(5) Le paragraphe 104(21) de la même loi 20 est abrogé et remplacé par ce qui suit :

“(21) Such portion of the net taxable capital gains of a trust for a taxation year as 25

(a) may reasonably be considered (having regard to all the circumstances including the terms and conditions of the trust arrangement) to be part of the amount that, by virtue of subsection 30 (13) or (14) or section 105, as the case may be, was included in computing the income for the taxation year of

(i) a particular beneficiary under the trust, if the trust is a mutual fund 35 trust, or

(ii) a particular beneficiary under the trust who is resident in Canada, if the trust is not a mutual fund trust, and

(b) was not designated by the trust in 40 respect of any other beneficiary thereunder,

shall, if so designated by the trust in respect of the particular beneficiary in the return of its income for the year under this 45 Part, be deemed, for the purposes of sections 3 and 111 except as they apply for

“(21) Pour l'application des articles 3 et 111, mais non tels qu'ils s'appliquent à l'article 110.6, est réputée être un gain en capital imposable d'un bénéficiaire donné 25 d'une fiducie pour une année d'imposition sur la disposition par lui d'un bien en immobilisation la fraction des gains en capital imposables nets, pour l'année, de la fiducie que celle-ci a attribuée à ce bénéficiaire 30 donné dans la déclaration du revenu de la fiducie pour l'année en vertu de la présente partie, à condition :

a) d'une part, qu'il soit raisonnable de considérer cette fraction (compte tenu 35 de toutes les circonstances, y compris des conditions de l'acte de fiducie) comme faisant partie de la somme qui, en vertu du paragraphe (13) ou (14) ou de l'article 105, selon le cas, a été 40 incluse dans le calcul du revenu pour l'année d'imposition

(i) du bénéficiaire donné de la fiducie, si celle-ci est une fiducie de fonds mutuels, ou 45

(ii) du bénéficiaire donné de la fiducie, qui réside au Canada, si la fiducie

Gains en capital imposables réputés d'un bénéficiaire

Portion of taxable capital gains deemed gain of beneficiary

the purposes of section 110.6, to be a taxable capital gain for the year of the particular beneficiary from the disposition by him of capital property.”

n'est pas une fiducie de fonds mutuels;

b) d'autre part, que la fiducie n'ait attribué cette fraction à aucun autre de ses bénéficiaires.»

5

(6) Section 104 of the said Act is further amended by adding thereto, immediately after subsection (21.1) thereof, the following subsections:

5 (6) L'article 104 de la même loi est modifié par insertion, après le paragraphe (21.1), de ce qui suit :

Beneficiary's
taxable capital
gain from trust

“(21.2) Where a trust has, for the purposes of subsection (21), designated an amount (in this subsection referred to as the “designated amount”) in respect of a beneficiary of the trust in respect of its net taxable capital gains for a taxation year (in this subsection referred to as the “designation year”) and by virtue thereof the designated amount is deemed, for the purposes described in that subsection, to be a taxable capital gain for the year of the beneficiary from the disposition by him of capital property,

(a) the trust shall in its return of income for the designation year designate an amount in respect of its eligible taxable capital gains for the designation year in respect of the beneficiary equal to the amount determined in respect of the beneficiary under paragraph (b); and

(b) the beneficiary shall, for the purposes of sections 3, 74.3 and 111 as they apply for the purposes of section 110.6, be deemed to have a taxable capital gain for the year from the disposition by him in the year of capital property equal to the amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the eligible taxable capital gains of 40 the trust for the designation year,

B is the designated amount, and

C is the net taxable capital gains of the trust for the designation year.

«(21.2) Lorsque, pour l'application du paragraphe (21), une fiducie a attribué un montant — appelé «montant attribué» au présent paragraphe — à un de ses bénéficiaires au titre des gains en capital imposables nets de celle-ci pour une année d'imposition — appelée «année d'attribution» au présent paragraphe — et qu'en conséquence le montant attribué est réputé, aux fins visées au paragraphe (21), être un gain en capital imposable du bénéficiaire pour l'année sur la disposition par celui-ci d'un bien en immobilisation,

Gain en capital
imposable du
bénéficiaire
d'une fiducie

a) d'une part, la fiducie doit, dans sa déclaration de revenu pour l'année d'attribution, attribuer au bénéficiaire, au titre des gains en capital imposables admissibles de la fiducie pour l'année d'attribution, le montant calculé selon l'alinéa b) à l'égard du bénéficiaire;

b) d'autre part, pour l'application des articles 3, 74.3 et 111 tels qu'ils s'appliquent à l'article 110.6, le bénéficiaire est réputé avoir un gain en capital imposable pour l'année sur la disposition d'un bien en immobilisation qu'il a effectuée dans l'année, égal au montant calculé selon la formule suivante :

$$A \times \frac{B}{C}$$

où

A représente les gains en capital imposables admissibles de la fiducie pour l'année d'attribution;

B représente le montant attribué;

C représente les gains en capital imposables nets de la fiducie pour l'année d'attribution.

Net taxable capital gains of trust determined

(21.3) For the purposes of this section, the net taxable capital gains of a trust for a taxation year is the amount, if any, by which the aggregate of the taxable capital gains of the trust for the year exceeds the aggregate of

(a) its allowable capital losses for the year, and

(b) the amount, if any, deducted under paragraph 111(1)(b) in computing its taxable income for the year.”

(7) Subsections (1) to (4) are applicable to the 1986 and subsequent taxation years.

(8) Subsections (5) and (6) are applicable to the 1985 and subsequent taxation years.

52. (1) Subsection 107(3) of the said Act is repealed and the following substituted therefor:

Cost of property other than non-depreciable capital property

“(3) Where the property referred to in subsection (2) that was distributed by a trust to a taxpayer was property other than capital property that was not depreciable property, for the purpose of determining the cost to the taxpayer of the property under paragraph (2)(b) (except for the purposes of paragraph (2)(b) as it applies to determine the taxpayer's proceeds of disposition of his capital interest under paragraph (2)(c)), the reference in paragraph (2)(b) to “the amount” shall be read as a reference to “1/2 of the amount”.”

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

53. (1) Paragraph 108(1)(a) of the said Act is repealed and the following substituted therefor:

“Accumulating income”

“(a) “accumulating income” of a trust for a taxation year means the amount that, but for subsections 104(8) and (12), would be its income for the year less, where the trust is a trust described in paragraph 104(4)(a), such amount, if any, as is included in computing the income of the trust for the taxation year by virtue of a deemed disposition after

(21.3) Pour l'application du présent article, les gains en capital imposables nets d'une fiducie pour une année d'imposition correspondent à l'excédent éventuel du total des gains en capital imposables de la fiducie pour l'année sur le total des montants suivants :

a) les pertes en capital déductibles de la fiducie pour l'année;

b) la somme éventuelle déduite selon l'alinéa 111(1)b) dans le calcul du revenu imposable de la fiducie pour l'année.»

(7) Les paragraphes (1) à (4) s'appliquent aux années d'imposition 1986 et suivantes.

(8) Les paragraphes (5) et (6) s'appliquent aux années d'imposition 1985 et suivantes.

52. (1) Le paragraphe 107(3) de la même loi est abrogé et remplacé par ce qui suit :

“(3) La mention «fraction, si fraction il y a,» à l'alinéa (2)b) est remplacée par la mention «moitié de la fraction éventuelle» aux fins du calcul selon cet alinéa du coût, pour un contribuable, des biens visés au paragraphe (2) qu'une fiducie lui a attribués et qui n'étaient pas des biens en immobilisation non amortissables; le présent paragraphe n'a aucun effet sur l'application de l'alinéa (2)b) au calcul selon l'alinéa (2)c) du produit de disposition, pour le contribuable, de sa participation au capital.»

Calcul des gains en capital imposables nets d'une fiducie

Coût d'un bien autre qu'un bien en immobilisation non amortissable

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

53. (1) L'alinéa 108(1)a) de la même loi est abrogé et remplacé par ce qui suit :

«a) «revenu accumulé» d'une fiducie pour une année d'imposition s'entend du montant qui, sans les paragraphes 104(8) et (12), représenterait son revenu pour l'année moins, s'il s'agit d'une fiducie visée à l'alinéa 104(4)a), le montant éventuel inclus dans le calcul du revenu de la fiducie pour l'année d'imposition à cause d'une disposition réputée, en vertu

«revenu accumulé»

November 12, 1981 under subsection 104(4), (5) or 107(4);”

du paragraphe 104(4), (5) ou 107(4), effectuée après le 12 novembre 1981;»

(2) Subsection 108(1) of the said Act is further amended by adding thereto, immediately after paragraph (d.1) thereof, the following paragraph:

(2) Le paragraphe 108(1) de la même loi est modifié par insertion, après l’alinéa d.1), de ce qui suit :

5

“Eligible taxable capital gains”

“(d.2) “eligible taxable capital gains” of a trust for a taxation year means the lesser of

(i) its annual gains limit (within the meaning assigned by the definition of that expression in subsection 110.6(1)) for the year, and

(ii) the amount, if any, by which

(A) its cumulative gains limit (within the meaning assigned by the definition of that expression in subsection 110.6(1) if that definition were read without reference to paragraph (c) thereof) at the end of 20 the year

exceeds

(B) the aggregate of all amounts each of which is an amount designated by the trust under subsection 104(21.2) in respect of a beneficiary in a taxation year preceding that year;”

«d.2) «gains en capital imposables admissibles» d’une fiducie pour une année d’imposition s’entend du moindre des montants suivants :

(i) le plafond annuel des gains (au sens du paragraphe 110.6(1)) de la fiducie pour l’année,

(ii) l’excédent éventuel

(A) du plafond des gains cumulatifs (au sens du paragraphe 110.6(1) s’il n’était pas tenu compte de l’alinéa c) de la définition de cette expression) de la fiducie à la fin de l’année

sur 20

(B) le total des montants dont chacun représente un montant attribué par la fiducie, en vertu du paragraphe 104(21.2), à un bénéficiaire dans une année d’imposition antérieure à l’année;»

«gains en capital imposables admissibles»

(3) Subparagraph 108(1)(j)(ii) of the said Act is repealed and the following substituted therefor:

(3) Le sous-alinéa 108(1)j)(ii) de la même loi est abrogé et remplacé par ce qui suit :

“(ii) a trust governed by a registered pension fund or plan, an employees profit sharing plan, a registered supplementary unemployment benefit plan, a registered retirement savings plan, a deferred profit sharing plan, a registered education savings plan, a registered retirement income fund, an employee benefit plan or an employee trust,”

«(ii) une fiducie régie par quelque caisse ou régime enregistré de pensions, régime de participation des employés aux bénéfices, régime enregistré de prestations supplémentaires de chômage, régime enregistré d’épargne-retraite, régime de participation différée aux bénéfices, régime enregistré d’épargne-études, fonds enregistré de revenu de retraite, régime de prestations aux employés ou fiducie d’employés,»

40

(4) All that portion of subsection 108(5) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

(4) Le passage du paragraphe 108(5) de la même loi qui suit l’alinéa b) est abrogé et remplacé par ce qui suit :

45

“but, for greater certainty, nothing in this subsection shall affect the application of sections 74 to 75.”

(5) Subsections (1) and (3) are applicable to the 1986 and subsequent taxation years.

(6) Subsection (2) is applicable to the 1985 and subsequent taxation years.

(7) Subsection (4) is applicable after May 21, 1985.

54. (1) Subparagraph 109(1)(a)(ii) of the 10 said Act is repealed and the following substituted therefor:

“(ii) \$1,400 less the amount, if any, by which the spouse’s income for the year while married exceeds \$200;” 15

(2) Subparagraph 109(1)(b)(iv) of the said Act is repealed and the following substituted therefor:

“(iv) \$1,400 less the amount, if any, by which the income for the year of 20 the dependent person exceeds \$200;”

(3) Paragraphs 109(1)(d) to (g) of the said Act are repealed and the following substituted therefor:

“(d) for each dependant of the 25 individual for the year, an amount equal to,

(i) if the dependant has not attained the age of 18 years before the end of the year, the amount, if any, by which 30

(A) 12 times the family allowance payable for a month in the year under subsection 3(1) of the *Family Allowances Act, 1973* in respect of a child 35

exceeds

(B) $\frac{1}{2}$ of the amount, if any, by which the income for the year of the dependant exceeds the amount by which \$1,600 exceeds twice the 40 amount determined under clause (A) for the year, and

(ii) if the dependant has attained the age of 18 years before the end of the year, 45

(A) in the case of a person dependent on the individual by reason of

«il est entendu cependant que rien au présent paragraphe ne modifie l’application des articles 74 à 75.»

(5) Les paragraphes (1) et (3) s’appliquent 5 aux années d’imposition 1986 et suivantes. 5

(6) Le paragraphe (2) s’applique aux années d’imposition 1985 et suivantes.

(7) Le paragraphe (4) s’applique après le 21 mai 1985.

54. (1) Le sous-alinéa 109(1)a)(ii) de la 10 même loi est abrogé et remplacé par ce qui suit :

«(ii) 1 400 \$ moins l’excédent éventuel du revenu du conjoint pour l’année pendant le mariage sur 200 \$;» 15

(2) Le sous-alinéa 109(1)b)(iv) de la même loi est abrogé et remplacé par ce qui suit :

«(iv) 1 400 \$ moins l’excédent éventuel du revenu, pour l’année, de cette 20 personne à charge sur 200 \$;»

(3) Les alinéas 109(1)d) à g) de la même loi sont abrogés et remplacés par ce qui suit :

«d) pour chaque personne à charge du 25 particulier pour l’année : 25 Personnes à charge

(i) si la personne à charge n’atteint pas l’âge de 18 ans avant la fin de l’année, l’excédent éventuel

(A) de 12 fois l’allocation familiale payable pour un mois de l’année à 30 l’égard d’un enfant, selon le paragraphe 3(1) de la *Loi de 1973 sur les allocations familiales*

sur

(B) la moitié de l’excédent éventuel 35 du revenu de la personne à charge pour l’année sur l’excédent de 1 600 \$ sur le double du montant calculé selon la division (A) pour l’année, 40

(ii) si la personne à charge a atteint l’âge de 18 ans avant la fin de l’année,

(A) 550 \$ moins l’excédent éventuel du revenu de la personne à charge pour l’année sur 1 050 \$, 45 dans le cas où elle est à la charge

<p>mental or physical infirmity, \$550 less the amount, if any, by which the income for the year of the dependant exceeds \$1,050, and (B) in any other case, the amount, if any, by which (I) twice the amount determined under clause (i)(A) for the year exceeds (II) 1/2 of the amount, if any, by which the income for the year of the dependant exceeds the amount by which \$1,600 exceeds twice the amount determined under subclause (I) for the year, but not exceeding, where the dependant is, in respect of the individual or his spouse, a person referred to in subparagraph (6)(b)(iii) or (iv), the amounts expended by the individual during the year for the support of that dependant;"</p>	<p>du particulier à cause d'une infirmité mentale ou physique, (B) dans les autres cas, l'excédent éventuel (I) du double du montant calculé selon la division (i)(A) pour l'année sur (II) la moitié de l'excédent éventuel du revenu de la personne à charge pour l'année sur l'excédent de 1 600 \$ sur le double du montant calculé selon la subdivision (I) pour l'année; toutefois, si la personne à charge est, par rapport au particulier ou à son conjoint, une personne visée au sous-alinéa (6)b(iii) ou (iv), le montant déductible en vertu du présent alinéa ne peut dépasser les dépenses faites par le particulier pendant l'année pour assurer l'entretien de cette personne à charge;"</p>
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(4) Paragraph 109(2)(b) of the said Act is repealed and the following substituted therefor:

"(b) where a taxpayer is entitled to a deduction under that paragraph in respect of any person described therein neither the taxpayer nor any other taxpayer is entitled to a deduction under paragraph (1)(d) in respect of that person; and"

(5) Subsection 109(5) of the said Act is repealed and the following substituted therefor:

"(5) Where more than one taxpayer is, in respect of a taxation year, entitled to deduct an amount under paragraph (1)(d) in respect of the same dependant, the aggregate of all amounts deductible for the year by those taxpayers in respect of that dependant shall not exceed the maximum amount that would be deductible under that paragraph for the year by any one of those taxpayers in respect of that dependant if that taxpayer were the only taxpayer entitled to deduct an amount under that paragraph in respect of that dependant and where the taxpayers cannot

(4) L'alinéa 109(2)(b) de la même loi est abrogé et remplacé par ce qui suit :

«b) lorsqu'un contribuable a droit à une déduction en vertu de cet alinéa à l'égard d'une personne qui y est visée, ni lui ni un autre contribuable n'a droit à une déduction en vertu de l'alinéa (1)d) à l'égard de cette personne;»

(5) Le paragraphe 109(5) de la même loi est abrogé et remplacé par ce qui suit :

«(5) Lorsque plus d'un contribuable a droit, pour une année d'imposition, de déduire une somme en vertu de l'alinéa (1)d) à l'égard de la même personne à charge, le total des montants déductibles pour l'année par ces contribuables à l'égard de cette personne ne peut dépasser le maximum qui serait déductible par un de ces contribuables à l'égard de cette personne en vertu de cet alinéa pour l'année s'il était le seul contribuable en droit de déduire un montant à l'égard de cette personne en vertu de cet alinéa; lorsque les contribuables ne peuvent s'entendre sur la

Partial
dependency

Personne à la
charge de
plusieurs
contribuables

agree as to what portion of the amount each can deduct, the Minister may fix the portions."

(6) Section 109 of the said Act is further amended by adding thereto the following subsection:

"(6) For the purposes of paragraph (1)(d) and subsection (5), "dependant" of an individual for a taxation year means a person who, during the year, was 10

(a) dependent upon the individual for support;

(b) in respect of the individual or his spouse, 15

(i) his child or grandchild,

(ii) his niece or nephew, if resident in Canada,

(iii) his brother or sister, if resident in Canada, or

(iv) his parent, grandparent, aunt or uncle, if resident in Canada; and 20

(c) either

(i) under 21 years of age, or

(ii) 21 years of age or over and 25

(A) dependent by reason of mental or physical infirmity, or

(B) a person referred to in paragraph (b) (other than subparagraph (iv) thereof) in full-time attendance at a school or university." 30

(7) Subsections (1) and (2) are applicable to the 1986 and subsequent taxation years.

(8) Subsections (3) to (6) are applicable to the 1986 and subsequent taxation years except that, in their application to the 1986, 1987 and 1988 taxation years, 35

(a) clause 109(1)(d)(i)(A) of the said Act, as enacted by subsection (3), shall be read as follows:

"(A) for a taxation year ending in 40

(I) 1986, \$710,

(II) 1987, \$560, and

(III) 1988, \$470"; and

partie de cette somme que chacun d'eux peut déduire, le ministre peut en fixer le montant.»

(6) L'article 109 de la même loi est modifié 5 par adjonction de ce qui suit :

«(6) Pour l'application de l'alinéa (1)d) et du paragraphe (5), «personne à charge» d'un particulier pour une année d'imposition s'entend d'une personne qui répond, au cours de cette année, aux conditions 10 suivantes :

a) son entretien est assuré par le particulier;

b) elle est, par rapport au particulier ou à son conjoint, 15

(i) son enfant ou petit-enfant,

(ii) sa nièce ou son neveu, s'ils résident au Canada,

(iii) son frère ou sa soeur, s'ils résident au Canada, 20

(iv) son père, sa mère, son grand-père, sa grand-mère, son oncle ou sa tante, s'ils résident au Canada;

c) elle est âgée 25

(i) soit de moins de 21 ans,

(ii) soit de 21 ans ou plus et elle est :

(A) à charge à cause d'une infirmité mentale ou physique, ou

(B) une personne visée à l'alinéa 30

b) — abstraction faite du sous-alinéa (iv) — qui fréquente l'école ou l'université à plein temps.»

Définition de «personne à charge»

(7) Les paragraphes (1) et (2) s'appliquent 35 aux années d'imposition 1986 et suivantes.

(8) Les paragraphes (3) à (6) s'appliquent aux années d'imposition 1986 et suivantes; toutefois, pour leur application aux années d'imposition 1986, 1987 et 1988, 40

a) la division 109(1)d)(i)(A) de la même loi, édictée par le paragraphe (3), est remplacée par ce qui suit :

«(A) pour une année d'imposition se terminant : 45

(I) en 1986, de 710 \$,

(II) en 1987, de 560 \$,

"Dependant" defined

(b) subclause 109(1)(d)(ii)(B)(I) of the said Act, as enacted by subsection (3), shall be read as follows:

“(I) for a taxation year ending in
1. 1986, \$1,420,
2. 1987, \$1,200, and
3. 1988, \$1,000”.

55. (1) Subparagraph 110(1)(c)(iv) of the said Act is repealed and the following substituted therefor:

“(iv) as remuneration for one full-time attendant upon, or for the full-time care in a nursing home of, the taxpayer, his spouse or any such dependant who, on application made before the end of the immediately following taxation year, is certified by the Minister of National Health and Welfare as being a person who, during the year, was suffering from severe and prolonged mental or physical impairment, if a certificate issued under subparagraph (e)(i) to that effect is filed for the year,”

(2) Subparagraph 110(1)(c)(vii) of the said Act is repealed.

(3) Subparagraph 110(1)(d)(ii) of the said Act is repealed and the following substituted therefor:

“(ii) the share is a prescribed share at the time of its sale or issue, as the case may be,”

(4) Subsection 110(1) of the said Act is further amended by adding thereto, immediately after paragraph (d) thereof, the following paragraphs:

“(d.1) where the taxpayer
(i) is deemed, under paragraph 7(1)(a) by virtue of subsection 7(1.1), to have received a benefit in the year in respect of a share acquired by him after May 22, 1985,
(ii) has not disposed of the share (otherwise than as a consequence of his death) or exchanged the share

(III) en 1988, de 470 \$»;

b) la subdivision 109(1)d)(ii)(B)(I) de la même loi, édictée par le paragraphe (3), est remplacée par ce qui suit :

«(I) pour une année d'imposition se terminant :
1. en 1986, de 1 420 \$,
2. en 1987, de 1 200 \$,
3. en 1988, de 1 000 \$».

55. (1) Le sous-alinéa 110(1)c)(iv) de la même loi est abrogé et remplacé par ce qui suit :

«(iv) à titre de rémunération d'un préposé à plein temps ou de frais dans une maison de santé ou de repos pour le séjour à plein temps du contribuable, de son conjoint ou d'une personne à charge susvisée, qui, sur demande faite avant la fin de l'année d'imposition suivante, est reconnu par le ministre de la Santé nationale et du Bien-être social comme une personne qui, pendant l'année, souffrait d'une déficience mentale ou physique grave et prolongée, si une attestation à cet effet délivrée en vertu du sous-alinéa e)(i) est produite pour l'année,»

(2) Le sous-alinéa 110(1)c)(vii) de la même loi est abrogé.

(3) Le sous-alinéa 110(1)d)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) l'action est une action prescrite au moment de sa vente ou de son émission, selon le cas,»

(4) Le paragraphe 110(1) de la même loi est modifié par insertion, après l'alinéa d), de ce qui suit :

«d.1) la moitié de la valeur de l'avantage dans le cas où le contribuable :
(i) est réputé, selon l'alinéa 7(1)a) à cause du paragraphe 7(1.1), avoir reçu un avantage dans l'année au titre d'une action qu'il a acquise après le 22 mai 1985,
(ii) n'a pas disposé de l'action (autrement que par suite de son décès) ou

Idem

Idem

within two years after the date he acquired it, and

(iii) has not deducted an amount under paragraph (d) in respect of the benefit in computing his taxable 5 income for the year,

an amount equal to 1/2 of the amount of the benefit;

(d.2) where the taxpayer has, under paragraph 35(1)(d), included an 10 amount in his income for the year in respect of a share received after May 22, 1985, an amount equal to 1/2 of that amount unless that amount is exempt from income tax in Canada by virtue of 15 a provision contained in a tax convention or agreement with another country that has the force of law in Canada;

(d.3) where the taxpayer has, under subsection 147(10.4), included an 20 amount in computing his income for the year, an amount equal to 1/2 of that amount;"

ne l'a pas échangée dans les deux ans suivant la date où il l'a acquise, et

(iii) n'a pas déduit de montant en vertu de l'alinéa d) pour l'avantage, dans le calcul de son revenu imposa- 5 ble pour l'année;

d.2) la moitié de la somme qu'un contribuable a incluse en vertu de l'alinéa 35(1)d), le cas échéant, dans son revenu pour l'année au titre d'une action qu'il a 10 reçue après le 22 mai 1985, sauf si cette somme est exonérée de l'impôt sur le revenu au Canada à cause d'une disposition de quelque convention ou accord fiscal conclu avec un autre pays et qui a 15 force de loi au Canada;

d.3) la moitié de l'excédent que le contribuable a inclus en vertu du paragraphe 147(10.4), le cas échéant, dans le calcul de son revenu pour l'année;" 20

Actions de prospecteur ou commanditaire en prospection

Actions d'employeur

(5) Paragraphs 110(1)(e) and (e.2) of the said Act are repealed and the following sub- 25 stituted therefor:

(5) Les alinéas 110(1)e) et e.2) de la même loi sont abrogés et remplacés par ce qui suit :

"(e) \$1,000, if the taxpayer

(i) is, on application made by him before the end of the immediately following taxation year, certified by 30 the Minister of National Health and Welfare as being a person who, during the year, was suffering from severe and prolonged mental or physical 35 impairment,

(ii) has filed with the Minister a certificate issued by the Minister of National Health and Welfare under subparagraph (i), and

(iii) did not include any amount in 40 respect of remuneration for an attendant, or care in a nursing home, by reason of his mental or physical impairment, in calculating a deduction for medical expenses under this 45 section for the year;

(e.1) where the taxpayer has claimed, in respect of a person resident in Canada at any time in the year who was

"(e) 1 000 \$,

(i) si le contribuable, à sa demande, 25 faite avant la fin de l'année d'imposition suivante, est reconnu par le ministre de la Santé nationale et du Bien-être social dans une attestation comme une personne qui, pendant 30 l'année, souffrait d'une déficience mentale ou physique grave et prolongée,

(ii) s'il a produit auprès du ministre l'attestation délivrée par le ministre 35 de la Santé nationale et du Bien-être social selon le sous-alinéa (i),

(iii) s'il n'a inclus, dans le calcul d'une déduction pour frais médicaux en vertu du présent article pour l'an- 40 née, aucun montant représentant une rémunération versée à un préposé ou des frais de séjour dans une maison de santé ou de repos à cause de la déficience mentale ou physique dont il 45 souffrait;

Déficience mentale ou physique

Prospector's and grubstaker's shares

Employer's shares

Mental or physical impairment

Dependant suffering from impairment

entitled to a deduction for the year under paragraph (e), a deduction under (i) paragraph 109(1)(b), or (ii) paragraph 109(1)(d), where that person was his child or grandchild, 5 or could have claimed such a deduction had that person no income for the year and where no amount in respect of remuneration for an attendant, or care in a nursing home, by reason of that 10 person's mental or physical impairment, has been deducted under this section for the year by the taxpayer or any other person, the amount, if any, by which \$1,000 exceeds that person's taxable 15 income for the year (computed before making any deduction under paragraph (e));"

(6) Subsection 110(1) of the said Act is further amended by striking out the word 20 "and" at the end of paragraph (h) thereof, by adding the word "and" at the end of paragraph (i) thereof and by adding thereto the following paragraph:

"(j) where the taxpayer has, by virtue 25 of section 80.4, included an amount in his income for the year in respect of a benefit received by him in respect of a home relocation loan, the least of (i) the amount, if any, by which 30 (A) the amount of interest for the year described in paragraph 80.4(1)(a) in respect of the loan exceeds (B) the amount of interest for the 35 year paid on the loan not later than 30 days after the end of the year, (ii) the amount of interest for the year that would be computed under paragraph 80.4(1)(a) in respect of a 40 home relocation loan of the individual if that loan were in the amount of \$25,000 and were extinguished on the earlier of

e.1) l'excédent éventuel de 1 000 \$ sur le revenu imposable pour l'année (calculé sans tenir compte de l'alinéa e)) d'une personne qui réside au Canada à une date quelconque de l'année et qui 5 avait droit à la déduction prévue à l'alinéa e) pour l'année, lorsque le contribuable a demandé pour l'année à l'égard de cette personne l'une ou l'autre des déductions suivantes ou aurait pu le 10 faire si cette personne n'avait eu aucun revenu pour l'année, et que le contribuable ou une autre personne n'a déduit en vertu du présent article pour l'année 15 aucun montant représentant une rémunération versée à un préposé ou des frais de séjour dans une maison de santé ou de repos à cause de la déficience mentale ou physique dont cette personne souffrait : 20

- (i) la déduction prévue à l'alinéa 109(1)b),
- (ii) la déduction prévue à l'alinéa 109(1)d) à l'égard de son enfant ou petit-enfant;» 25

(6) Le paragraphe 110(1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa h) et par adjonction de ce qui suit :

«j) lorsque le contribuable a inclus, en 30 vertu de l'article 80.4, un montant dans son revenu pour l'année au titre d'un avantage qu'il a reçu sous forme de prêt à la réinstallation, le moindre des montants suivants : 35

- (i) l'excédent éventuel (A) du montant des intérêts pour l'année visés à l'alinéa 80.4(1)a) sur le prêt 40 sur 40 (B) le montant des intérêts pour l'année payé sur le prêt au plus tard 30 jours après la fin de l'année, (ii) le montant des intérêts pour l'année qui serait calculé selon l'alinéa 45 80.4(1)a) sur un prêt à la réinstallation du particulier s'il s'agissait d'un prêt de 25 000 \$ éteint au premier en date des jours suivants :

Personne à charge souffrant d'une déficience

Prêt à la réinstallation

Home relocation loan

	<p>(A) the day that is five years after the day on which the home relocation loan was made, and</p> <p>(B) the day on which the home relocation loan was extinguished and</p> <p>(iii) the amount of the benefit deemed to have been received by the taxpayer under section 80.4 in the year.”</p>	<p>(A) le jour qui tombe cinq ans après la date où le prêt à la réinstallation a été consenti,</p> <p>(B) le jour où le prêt à la réinstallation a été éteint,</p> <p>(iii) le montant au titre de l'avantage réputé reçu par le contribuable en vertu de l'article 80.4 dans l'année.»</p>	
	(7) Section 110 of the said Act is further amended by adding thereto, immediately after subsection (1.2) thereof, the following subsections:	(7) L'article 110 de la même loi est modifié par insertion, après le paragraphe (1.2), 10 de ce qui suit :	
Nature of impairment	<p>“(1.3) For the purposes of subparagraph (1)(c)(iv) and paragraph (1)(e), a person shall be considered to be suffering from severe and prolonged impairment only if by reason thereof he is markedly restricted in his activities of daily living and the impairment has lasted or can reasonably be expected to last for a continuous period of at least 12 months.</p>	<p>«(1.3) Pour l'application du sous-alinéa (1)(c)(iv) et de l'alinéa (1)e), une déficience est considérée comme grave et prolongée uniquement si, à cause de celle-ci, une personne se trouve manifestement limitée dans ses activités de vie quotidienne et uniquement si cette déficience dure au moins 12 mois d'affilée ou s'il est raisonnable de s'attendre à ce qu'elle dure cette même période.</p>	Déficience grave et prolongée
Replacement of home relocation loan	<p>(1.4) For the purposes of paragraph (1)(j), a loan received by a taxpayer that is used to repay a home relocation loan shall be deemed to be the same loan as the relocation loan and to have been made on the same day as the relocation loan.”</p>	<p>(1.4) Pour l'application de l'alinéa (1)j), un prêt reçu par un contribuable qui sert à rembourser un prêt à la réinstallation est réputé être le même prêt que le prêt à la réinstallation et avoir été consenti le même jour que celui-ci.»</p>	Prêt réputé prêt à la réinstallation
	(8) Subparagraph 110(2.2)(a)(i) of the said Act is repealed and the following substituted therefor:	(8) Le sous-alinéa 110(2.2)a)(i) de la même loi est abrogé et remplacé par ce qui suit :	
	<p>“(i) capital property to a donee described in paragraph (1)(a) or (b), or”</p>	<p>«(i) d'un bien en immobilisation à un donataire visé à l'alinéa (1)a) ou b), ou»</p>	
	(9) Subsection 110(2.2) of the said Act is further amended by striking out the word “and” at the end of paragraph (b) thereof, by adding the word “and” at the end of paragraph (a) thereof and by repealing paragraph (c) thereof.	(9) Le paragraphe 110(2.2) de la même loi est modifié par adjonction du mot «et» à la fin de l'alinéa a), par suppression de ce mot à la fin de l'alinéa b) et par abrogation de l'alinéa c).	
	(10) Section 110 of the said Act is further amended by adding thereto the following subsection:	(10) L'article 110 de la même loi est modifié par adjonction de ce qui suit :	
Gifts of art	<p>“(2.3) Where at any time after 1984 (a) an individual has made, whether by his will or otherwise, a gift of a work of</p>	<p>«(2.3) Lorsque, à une date postérieure à 1984,</p>	Don d'une oeuvre d'art

art created by him that is property in his inventory to a donee described in paragraph (1)(a) or (b), and

(b) the fair market value of the work of art at that time exceeded its cost amount to him,

such amount, not greater than the fair market value and not less than the cost amount to the individual of the work of art at that time, as is designated by him or his legal representative in his return of income under section 150 for the year in which the gift was made shall, if the making of the gift is proved by filing with the Minister a receipt containing prescribed information, be deemed to be the individual's proceeds of disposition of the work of art and the amount of the gift made by him."

a) un particulier fait don, par testament ou autrement, d'une oeuvre d'art qu'il a créée et qui est un bien décrit à son inventaire, à un donataire visé à l'alinéa (1)a) ou b), et

b) la juste valeur marchande de l'oeuvre d'art à cette date dépasse son coût indiqué pour le particulier,

le montant que le particulier ou son représentant légal désigne dans la déclaration de revenu du particulier produite conformément à l'article 150 pour l'année du don et qui ne peut être ni supérieur à la juste valeur marchande de l'oeuvre ni inférieur à son coût indiqué pour le particulier à cette date, est réputé être à la fois le produit de disposition de l'oeuvre d'art pour le particulier et le montant du don fait par le particulier si un reçu contenant les renseignements prescrits et qui prouve le don est produit auprès du ministre.»

(11) Subsections (1), (2) and (5) and subsection 110(1.3) of the said Act, as enacted by subsection (7), are applicable to the 1986 and subsequent taxation years.

(11) Les paragraphes (1), (2) et (5) ainsi que le paragraphe 110(1.3) de la même loi, édicté par le paragraphe (7), s'appliquent aux années d'imposition 1986 et suivantes.

(12) Subsection (3) is applicable in respect of shares of a corporation issued or sold, as the case may be, after May 22, 1985, other than shares issued before 1986 under the terms of an agreement in writing entered into before May 23, 1985.

(12) Le paragraphe (3) s'applique aux actions d'une corporation émises ou vendues, selon le cas, après le 22 mai 1985, à l'exclusion des actions émises avant 1986 conformément à un accord écrit conclu avant le 23 mai 1985.

(13) Subsection (4) is applicable with respect to shares acquired after May 22, 1985.

(13) Le paragraphe (4) s'applique aux actions acquises après le 22 mai 1985.

(14) Subsection (6) and subsection 110(1.4) of the said Act, as enacted by subsection (7), are applicable to the 1985 and subsequent taxation years.

(14) Le paragraphe (6) et le paragraphe 110(1.4) de la même loi, édicté par le paragraphe (7), s'appliquent aux années d'imposition 1985 et suivantes.

(15) Subsections (8) to (10) are applicable with respect to gifts made after 1984.

(15) Les paragraphes (8) à (10) s'appliquent aux dons faits après 1984.

56. (1) Paragraph 110.1(1)(b) of the said Act is amended by adding the word "and" at the end of subparagraph (i) thereof and by repealing subparagraphs (iii), (iii.1) and (iii.2) thereof.

56. (1) L'alinéa 110.1(1)b) de la même loi est modifié par adjonction du mot «et» à la fin du sous-alinéa (i) et par abrogation des sous-alinéas (iii), (iii.1) et (iii.2).

(2) Subsection 110.1(4) of the said Act is repealed and the following substituted therefor:

(2) Le paragraphe 110.1(4) de la même loi est abrogé et remplacé par ce qui suit :

Idem

“(4) Where there is required to be included in computing a taxpayer's income for a taxation year by virtue of subsection 56(4) or sections 74 to 75 income of another person that is interest, the amount so included in the taxpayer's income shall, for the purposes of this section, be deemed to be interest included in computing his income for the year.”

(3) Subsection 110.1(5) of the said Act is amended by adding the word “or” at the end of paragraph (a) thereof and by repealing paragraphs (c) and (d) thereof.

(4) Subsection 110.1(6) of the said Act is repealed.

(5) Subsections (1) and (4) are applicable to the 1985 and subsequent taxation years.

(6) Subsection (2) is applicable after May 21, 1985.

(7) Subsection (3) is applicable to the 1986 and subsequent taxation years.

57. (1) Subparagraph 110.4(1)(b)(ii) of the said Act is repealed and the following substituted therefor:

“(ii) the amount, if any, by which
(A) his income for the year of averaging exceeds the aggregate of
(B) 110% of the quotient obtained when
(I) the aggregate of all amounts each of which is his adjusted income for a taxation year in the period of such of the three years immediately preceding the year of averaging as were years throughout which he was resident in Canada
is divided by
(II) the number of years in the period mentioned in subclause (I), and
(C) the amount deducted under section 110.6 in computing his taxable income for the year of averaging.”

Idem

«(4) Lorsque le revenu d'une personne qui consiste en intérêts doit être inclus dans le calcul du revenu d'un contribuable autre que cette personne pour une année d'imposition en vertu du paragraphe 56(4) ou des articles 74 à 75, le montant ainsi inclus dans le revenu du contribuable est réputé, pour l'application du présent article, consister en intérêts inclus dans le calcul de son revenu pour l'année.»

(3) Le paragraphe 110.1(5) de la même loi est modifié par adjonction du mot «ou» à la fin de l'alinéa a) et par abrogation des alinéas c) et d).

(4) Le paragraphe 110.1(6) de la même loi est abrogé.

(5) Les paragraphes (1) et (4) s'appliquent aux années d'imposition 1985 et suivantes.

(6) Le paragraphe (2) s'applique après le 21 mai 1985.

(7) Le paragraphe (3) s'applique aux années d'imposition 1986 et suivantes.

57. (1) Le sous-alinéa 110.4(1)b)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) l'excédent éventuel
(A) du revenu du particulier pour l'année d'étalement
sur le total des montants suivants :
(B) 110 % du quotient obtenu en divisant :
(I) le total des montants dont chacun représente le revenu rajusté du particulier pour une année d'imposition dans la période correspondant à celles des trois années précédant l'année d'étalement tout au long desquelles il résidait au Canada
par
(II) le nombre d'années dans la période visée à la subdivision (I),
(C) le montant déduit selon l'article 110.6 dans le calcul du revenu imposable du particulier pour l'année d'étalement.»

(2) Paragraph 110.4(8)(b) of the said Act is repealed and the following substituted therefor:

"Adjusted income"

"(b) "adjusted income" of an individual for a taxation year means the product obtained when

(i) the amount, if any, by which his income for the year exceeds the amount deducted in computing his taxable income for the year under section 110.6

is multiplied by

(ii) the ratio, adjusted in such manner as may be prescribed and rounded to the nearest one-thousandth or, where the ratio is equidistant from two one-thousandths, to the higher thereof, that the Consumer Price Index for the 12 month period that ended on the 30th day of September next before the year of averaging bears to the Consumer Price Index for the 12 month period that ended on the 30th day of September next before the taxation year."

(3) Subsections (1) and (2) are applicable to the 1985 and subsequent taxation years.

58. (1) The said Act is further amended by adding thereto, immediately after section 110.5 thereof, the following section:

Definitions

"annual gains limit"
«plafond annuel des gains»

"110.6 (1) For the purposes of this section,

"annual gains limit" of an individual for a taxation year means the amount, if any, by which

(a) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses if the properties referred to in that paragraph were

(i) in the case of properties other than qualified farm properties, only such properties disposed of by him in the year, and

(ii) in the case of qualified farm properties, only such properties disposed of by him after 1984,

exceeds the aggregate of

(2) L'alinéa 110.4(8)b) de la même loi est abrogé et remplacé par ce qui suit :

«b) «revenu rajusté» d'un particulier pour une année d'imposition s'entend du produit obtenu en multipliant :

(i) l'excédent éventuel de son revenu pour l'année sur le montant déduit dans le calcul de son revenu imposable pour l'année selon l'article 110.6,

par

(ii) le rapport, rajusté de la manière prescrite et arrêté à la troisième décimale, les résultats qui ont au moins cinq en quatrième décimale étant arrondis à la troisième décimale supérieure, entre l'indice des prix à la consommation pour la période de douze mois qui s'est terminée le 30 septembre précédant l'année d'établissement et l'indice des prix à la consommation pour la période de douze mois qui s'est terminée le 30 septembre précédant l'année d'imposition.»

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1985 et suivantes.

58. (1) La même loi est modifiée par insertion, après l'article 110.5, de ce qui suit :

"110.6 (1) Les définitions qui suivent s'appliquent au présent article.

«bien agricole admissible» L'un des biens suivants appartenant à un particulier ou à son conjoint :

a) un bien immeuble utilisé dans le cadre de l'exploitation d'une entreprise agricole au Canada :

(i) soit par le particulier, son conjoint ou un de ses enfants,

(ii) soit par une corporation dont une action du capital-actions est une action du capital-actions d'une corporation agricole familiale (au sens de l'alinéa 70(10)b)) du particulier, de son conjoint ou d'un de ses enfants,

(iii) soit par une société dont une participation est une participation

Définitions

«bien agricole admissible»
"qualified farm property"

“cumulative
gains limit”
«plafond des
gains cumula-
tifs»

“qualified farm
property”
«bien
agricole...»

(b) the amount of his net capital losses for other taxation years deducted in computing his taxable income for the year under paragraph 111(1)(b), and

(c) the aggregate of all his allowable business investment losses for the year;

“cumulative gains limit” of an individual at the end of a taxation year means the amount, if any, by which

(a) the aggregate of all amounts each of which is the amount determined in respect of the individual for the year or a preceding taxation year ending after 1984 under paragraph (a) of the definition “annual gains limit”

exceeds the aggregate of

(b) the aggregate of all amounts each of which is the amount determined in respect of the individual for the year or a preceding taxation year ending after 1984 under paragraph (b) or (c) of the definition “annual gains limit” or an amount deducted by the individual under paragraph 3(e) for his 1985 taxation year, and
(c) the aggregate of all amounts each of which is an amount deducted by the individual under this section in computing his taxable income for a preceding taxation year;

“qualified farm property” of an individual means a property owned by him or his spouse that was

(a) real property used by

- (i) the individual, his spouse or any of his children,
- (ii) a corporation, a share of the capital stock of which is a share of the capital stock of a family farm corporation (within the meaning assigned by paragraph 70(10)(b)) of the individual, his spouse or any of his children, or
- (iii) a partnership, an interest in which is an interest in a family farm partnership (within the meaning assigned by paragraph 70(10)(c)) of the individual, his spouse or any of his children

dans une société agricole familiale (au sens de l'alinéa 70(10)c)) du particulier, de son conjoint ou d'un de ses enfants;

pour l'application de la présente définition, un bien est considéré comme utilisé par le particulier dans le cadre de l'exploitation d'une entreprise agricole au Canada, si le bien ou un bien y substitué est utilisé dans ce cadre par une personne ou société, selon le cas, visée aux sous-alinéas (i) à (iii) :

(iv) soit dans l'année où le particulier a disposé du bien,

(v) soit pendant au moins cinq années, pendant lesquelles le bien a appartenu au particulier, à son conjoint ou à un de ses enfants;

b) une action du capital-actions d'une corporation agricole familiale (au sens de l'alinéa 70(10)b)) du particulier ou de son conjoint;

c) une participation dans une société agricole familiale (au sens de l'alinéa 70(10)c)) du particulier ou de son conjoint.

«plafond annuel des gains» Limite permise à un particulier pour une année d'imposition, correspondant à l'excédent éventuel

«plafond annuel
des gains»
“annual gains
limit”

a) du montant qui serait obtenu selon l'alinéa 3b) à l'égard de ce particulier pour l'année au titre des gains en capital et des pertes en capital, si les biens visés à cet alinéa étaient :

- (i) uniquement des biens dont ce particulier disposait dans l'année, dans le cas de biens qui ne sont pas des biens agricoles admissibles,
- (ii) uniquement des biens dont ce particulier disposait après 1984, dans le cas de biens agricoles admissibles,

sur le total des montants suivants :

b) le montant des pertes en capital nettes qu'il subit pour d'autres années d'imposition, déduit selon l'alinéa 111(1)b) dans le calcul de son revenu imposable pour l'année;

in the course of carrying on the business of farming in Canada and for the purposes of this definition property will be considered to have been used by the individual in the course of carrying on the business of farming in Canada if the property or property for which that real property was substituted was used by a person or partnership, as the case may be, referred to in subparagraphs (i) to (iii) in the course of carrying on a business of farming in Canada

(iv) in the year the property was disposed of by the individual, or

(v) in at least five years during which the property was owned by the individual, his spouse or his children,

(b) a share of the capital stock of a family farm corporation (within the meaning assigned by paragraph 70(10)(b)) of the individual or his spouse, or

(c) an interest in a family farm partnership (within the meaning assigned by paragraph 70(10)(c)) of the individual or his spouse.

(2) In computing the taxable income for a taxation year of an individual (other than a trust) ending before 1990 who was resident in Canada throughout the year and who disposed of qualified farm property in the year or a preceding taxation year ending after 1984, there may be deducted such amount as he may claim not exceeding the least of

(a) the amount, if any, by which \$250,000 exceeds the aggregate of all amounts each of which is an amount deducted by the individual under this subsection in computing his taxable income for a preceding taxation year;

(b) his cumulative gains limit at the end of the year;

(c) his annual gains limit for the year; and

c) le total des pertes déductibles au titre d'un placement d'entreprise qu'il subit pour l'année.

«plafond des gains cumulatifs» Limite permise à un particulier à la fin d'une année d'imposition, correspondant à l'excédent éventuel

a) du total des montants dont chacun représente le montant calculé selon l'alinéa a) de la définition de «plafond annuel des gains», à l'égard de ce particulier pour l'année ou pour une année d'imposition antérieure se terminant après 1984,

sur le total des montants suivants :

b) le total des montants dont chacun représente le montant calculé, selon l'alinéa b) ou c) de la définition de «plafond annuel des gains», à l'égard de ce particulier pour l'année ou pour une année d'imposition antérieure se terminant après 1984 ou un montant que ce particulier déduit selon l'alinéa 3e) pour l'année d'imposition 1985;

c) le total des montants dont chacun représente un montant que ce particulier a déduit selon le présent article dans le calcul de son revenu imposable pour une année d'imposition antérieure.

(2) Le particulier (à l'exception d'une fiducie) qui réside au Canada tout au long d'une année d'imposition se terminant avant 1990 et qui dispose de biens agricoles admissibles dans cette année ou dans une année d'imposition antérieure se terminant après 1984, peut déduire, dans le calcul de son revenu imposable pour cette année, un montant qui ne dépasse pas le moindre des montants suivants :

a) l'excédent éventuel de 250 000 \$ sur le total des montants dont chacun représente un montant que le particulier a déduit selon le présent paragraphe dans le calcul de son revenu imposable pour une année d'imposition antérieure;

b) son plafond des gains cumulatifs à la fin de l'année;

c) son plafond annuel des gains pour l'année;

«plafond des gains cumulatifs»
"cumulative gains limit"

Déduction pour gains en capital — biens agricoles admissibles

Capital gains deduction — qualified farm property

Capital gains
deduction

(d) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm properties disposed of by him after 1984. 5

(3) In computing the taxable income for a taxation year of an individual (other than a trust) who was resident in Canada throughout the year, there may be deducted such amount as he may claim not exceeding the least of 10

(a) the amount, if any, by which \$250,000 exceeds the aggregate of all amounts each of which is an amount deducted by the individual under this section in computing his taxable income for a preceding taxation year; 20

(b) the amount, if any, by which his cumulative gains limit at the end of the year exceeds the amount deducted under subsection (2) in computing his taxable income for the year; and 25

(c) the amount, if any, by which his annual gains limit for the year exceeds the amount deducted under subsection (2) in computing his taxable income for the year. 30

Maximum
capital gains
deduction

(4) Notwithstanding subsections (2) and (3), the total amount that may be deducted under this section in computing the taxable income of an individual for a taxation year shall not exceed the amount, if any, by which \$250,000 exceeds the aggregate of all amounts each of which is an amount deducted by the individual under this section in computing his taxable income for a preceding taxation year. 40

Deemed
resident in
Canada

(5) Where an individual was resident in Canada at any time in a particular taxation year and throughout

(a) the immediately preceding taxation year, or 45

(b) the immediately following taxation year,

d) le montant qui serait obtenu selon l'alinéa 3b) à l'égard de ce particulier pour l'année au titre des gains en capital et pertes en capital, si les seuls biens visés à cet alinéa étaient des biens agricoles admissibles dont le particulier disposait après 1984. 5

(3) Le particulier (à l'exception d'une fiducie) qui réside au Canada tout au long d'une année d'imposition peut déduire, dans le calcul de son revenu imposable pour cette année, un montant qui ne dépasse pas le moindre des montants suivants : 10

a) l'excédent éventuel de 250 000 \$ sur le total des montants dont chacun représente un montant que le particulier a déduit selon le présent article dans le calcul de son revenu imposable pour une année d'imposition antérieure; 20

b) l'excédent éventuel de son plafond des gains cumulatifs à la fin de l'année sur le montant qu'il déduit selon le paragraphe (2) dans le calcul de son revenu imposable pour l'année; 25

c) l'excédent éventuel de son plafond annuel des gains pour l'année sur le montant qu'il déduit selon le paragraphe (2) dans le calcul de son revenu imposable pour l'année. 30

Déduction pour
gains en capital

(4) Par dérogation aux paragraphes (2) et (3), le montant total qu'un particulier peut déduire selon le présent article dans le calcul de son revenu imposable pour une année d'imposition ne peut dépasser l'excédent éventuel de 250 000 \$ sur le total des montants dont chacun représente un montant que le particulier a déduit selon le présent article dans le calcul de son revenu imposable pour une année d'imposition antérieure. 40

Déduction
maximale pour
gains en capital

(5) Pour l'application du présent article, un particulier est réputé résider au Canada tout au long d'une année d'imposition donnée s'il y réside à une date quelconque de cette année donnée et 45

Résidence
réputée

a) soit tout au long de l'année d'imposition précédente;

for the purposes of this section he shall be deemed to have been resident in Canada throughout the particular year.

(6) Notwithstanding subsections (2) and (3), where an individual has a capital gain for a taxation year from the disposition of a capital property and knowingly or under circumstances amounting to gross negligence

(a) fails to file a return of his income for the year within one year after the day on or before which he is required to file a return of his income for the year pursuant to section 150, or

(b) fails to report the capital gain in his return of income for the year required to be filed pursuant to section 150,

no amount may be deducted under this section in respect of the capital gain in computing his taxable income for that or any subsequent taxation year and the burden of establishing the facts justifying the denial of such amount under this section is on the Minister.

(7) Notwithstanding subsections (2) and (3), where an individual has a capital gain for a taxation year from the disposition of property as part of a series of transactions or events each of which is effected or to be effected after November 21, 1985

(a) to which subsection 55(2) would, but for paragraph 55(3)(b), apply, or

(b) in which any property is acquired by a corporation or partnership for consideration that does not approximate its fair market value at the time of acquisition (other than an acquisition as the result of an amalgamation or merger of corporations or the winding-up of a corporation or partnership or a distribution of property of a trust in satisfaction of all or part of a corporation's capital interest in the trust),

no amount in respect of that capital gain shall be deducted under this section in computing his taxable income for the year.

b) soit tout au long de l'année d'imposition suivante.

(6) Par dérogation aux paragraphes (2) et (3), aucun montant n'est déductible en vertu du présent article au titre d'un gain en capital réalisé par un particulier pour une année d'imposition sur la disposition d'un bien en immobilisation, dans le calcul du revenu imposable de ce particulier pour cette année ou pour une année d'imposition ultérieure, si, sciemment ou dans des circonstances indiquant faute lourde, ce particulier :

a) soit ne produit pas une déclaration de son revenu pour l'année dans un délai de un an suivant le jour où il est, au plus tard, tenu d'en produire une pour l'année conformément à l'article 150;

b) soit ne déclare pas ce gain en capital dans la déclaration de revenu pour l'année qu'il est tenu de produire conformément à l'article 150.

Le ministre a la charge d'établir les faits qui justifient le rejet d'une déduction faite malgré le présent paragraphe.

(7) Par dérogation aux paragraphes (2) et (3), aucun montant n'est déductible en vertu du présent article au titre d'un gain en capital réalisé par un particulier pour une année d'imposition sur la disposition d'un bien, dans le calcul du revenu imposable de ce particulier pour cette année, si cette disposition fait partie d'une série d'événements ou opérations qui ont lieu ou doivent avoir lieu, chacun, après le 21 novembre 1985 et si cette série en est une :

a) soit à laquelle le paragraphe 55(2) s'appliquerait, n'eût été l'alinéa 55(3)b);

b) soit dans laquelle une corporation ou une société acquiert un bien pour une contrepartie éloignée de sa juste valeur marchande à la date de l'acquisition (sauf si l'acquisition résulte d'une fusion ou unification de corporations, de la liquidation d'une corporation ou société ou d'une attribution de biens d'une fiducie contre tout ou partie d'une participation d'une corporation au capital d'une fiducie).

Failure to
report capital
gain

Where
deduction not
permitted

Gain en capital
non déclaré

Déduction
exclue

dem

(8) Notwithstanding subsections (2) and (3), where an individual has a capital gain for a taxation year from the disposition, after November 21, 1985, of a property and it may reasonably be concluded, 5 having regard to all the circumstances, that a significant portion of the capital gain is attributable to the fact that dividends were not paid on a share (other than a prescribed share) of a corporation or 10 that dividends paid on such a share in the year or in any preceding taxation year were less than 90% of the average annual rate of return thereon for that year, no amount in respect of that capital gain shall 15 be deducted under this section in computing his taxable income for the year.

average annual rate of return

(9) For the purpose of subsection (8), the average annual rate of return on a share (other than a prescribed share) of a 20 corporation for a taxation year is the annual rate of return by way of dividends that a knowledgeable and prudent investor who purchased the share on the day it was issued would expect to receive in that year, 25 other than the first year after the issue, in respect of the share if

(a) there was no delay or postponement of the payment of dividends and no failure to pay dividends in respect of the 30 share;

(b) there was no variation from year to year in the amount of dividends payable in respect of the share (other than where the amount of dividends payable is 35 expressed as an invariant percentage of or by reference to an invariant difference between the dividend expressed as a rate of interest and a generally quoted market interest rate); and 40

(c) the proceeds to be received by the investor on the disposition of the share is the same amount the corporation received as consideration on the issue of the share. 45

(10) Notwithstanding subsections (2) and (3), where an individual has a capital

Gain from extension or renewal of option

Idem

(8) Par dérogation aux paragraphes (2) et (3), aucun montant n'est déductible en vertu du présent article au titre d'un gain en capital réalisé par un particulier pour une année d'imposition sur la disposition, 5 après le 21 novembre 1985, d'un bien, dans le calcul du revenu imposable de ce particulier pour cette année, s'il est raisonnable de conclure, étant donné les circonstances, qu'une partie significative du gain 10 en capital est attribuable au fait que des dividendes n'ont pas été versés sur une action d'une corporation — à l'exclusion d'une action prescrite — ou que des dividendes versés sur une telle action dans 15 l'année ou dans une année d'imposition antérieure étaient inférieurs au montant correspondant à 90 % du taux de rendement annuel moyen sur l'action pour cette année. 20

Signification de taux de rendement annuel moyen

(9) Pour l'application du paragraphe (8), le taux de rendement annuel moyen sur une action d'une corporation — à l'exclusion d'une action prescrite — pour une année d'imposition est égal au taux de 25 rendement annuel sous forme de dividendes qu'un investisseur avisé et prudent qui a acheté l'action le jour où elle a été émise s'attendrait à recevoir sur cette action dans l'année — à l'exclusion de la première 30 année suivant l'émission — si les conditions suivantes étaient réunies :

a) il n'y a eu ni retard ou report dans le versement des dividendes, ni défaut de versement des dividendes, sur l'action; 35

b) le montant des dividendes payables sur l'action n'a pas varié d'une année sur l'autre (sauf si le montant des dividendes payables est exprimé en pourcentage invariable ou est fonction d'une diffé- 40 rence invariable entre le dividende exprimé en taux d'intérêt et le taux d'intérêt généralement affiché du marché);

c) le produit à recevoir par l'investisseur 45 à la disposition de l'action est le même montant que la corporation a reçu en contrepartie de l'émission de l'action.

(10) Par dérogation aux paragraphes (2) et (3), aucun montant n'est déductible 50

Gain sur prolongement ou renouvellement d'option

gain for a taxation year arising as a result of his granting, after November 21, 1985, an extension or renewal of an option to acquire property, no amount in respect of that capital gain shall be deducted under this section in computing his taxable income for the year.

Where
deduction not
permitted

(11) Where it is reasonable to consider that one of the main reasons for an individual acquiring, holding or having an interest in a partnership or trust (other than an interest in a testamentary trust or an interest in a trust no beneficial interest in which was acquired for consideration payable directly or indirectly to the trust or to any person who has made a contribution to the trust by way of a transfer, assignment or other disposition of property) or a share of an investment corporation, mortgage investment corporation or mutual fund corporation, or for the existence of any terms, conditions, rights or other attributes of the interest or share, is to enable the individual to receive or have allocated to him a percentage of any capital gain or taxable capital gain of the partnership, trust or corporation that is larger than his percentage of the income of the partnership, trust or corporation, as the case may be, notwithstanding any other provision of this Act,

(a) no amount may be deducted under this section by the individual in respect of any such gain allocated or distributed to him after November 21, 1985; and

(b) where the individual is a trust, any such gain allocated or distributed to it after November 21, 1985 shall not be included in computing its eligible taxable capital gain (within the meaning assigned by paragraph 108(1)(d.2)).

en vertu du présent article au titre d'un gain en capital que réalise un particulier pour une année d'imposition en consentant, après le 21 novembre 1985, un prolongement ou renouvellement d'une option portant sur l'acquisition d'un bien, dans le calcul du revenu imposable de ce particulier pour cette année.

(11) Lorsqu'il est raisonnable de considérer que l'un des principaux motifs pour lesquels un particulier acquiert, détient ou a une participation dans une société ou dans une fiducie — à l'exclusion d'une participation dans une fiducie testamentaire et d'une participation dans une fiducie dans laquelle aucun droit de bénéficiaire n'est acquis pour une contrepartie payable directement ou indirectement à la fiducie ou à une personne qui verse une contribution à la fiducie sous forme de transfert, cession ou autre disposition de biens — ou une action d'une corporation de placement, d'une corporation de placements hypothécaires ou d'une corporation de fonds mutuels, ou que l'un des principaux motifs de l'existence de certaines conditions, de certains droits ou d'autres caractéristiques de la participation ou de l'action, consiste à permettre au particulier de recevoir ou de se voir attribuer un pourcentage d'un gain en capital ou gain en capital imposable de la société, de la fiducie ou de la corporation, pourcentage qui est supérieur à celui qui correspond à sa part du revenu de la société, de la fiducie ou de la corporation, selon le cas, nonobstant les autres dispositions de la présente loi,

Déduction non
admise

a) le particulier ne peut déduire aucun montant en vertu du présent article au titre d'un tel gain qu'il reçoit ou qui lui est attribué après le 21 novembre 1985; et

b) si le particulier est une fiducie, un tel gain que celle-ci reçoit ou qui lui est attribué après le 21 novembre 1985 ne peut être inclus dans le calcul de ses gains en capital imposables admissibles au sens de l'alinéa 108(1)(d.2).

duction from
taxable income
spousal trust

(12) Notwithstanding any other provision of this Act, a trust described in paragraph 104(4)(a) may, in computing its taxable income for its taxation year in which the taxpayer's spouse referred to in that paragraph died, deduct under this section an amount equal to the lesser of

(a) the amount, if any, by which the eligible taxable capital gains (within the meaning assigned by paragraph 108(1)(d.2)) of the trust for that year exceeds the amount, if any, by which

(i) the amount, if any, determined under paragraph (b) of the definition "cumulative gains limit" in subsection

(1) in respect of the taxpayer's spouse at the end of the taxation year in which the spouse died

exceeds

(ii) the amount, if any, determined under paragraph (a) of the definition "cumulative gains limit" in subsection (1) in respect of the taxpayer's spouse at the end of the taxation year in which the spouse died; and

(b) the amount, if any, by which \$250,000 exceeds the aggregate of all amounts each of which is an amount deducted by the taxpayer's spouse under this section for the taxation year in which the spouse died or a preceding taxation year.

determination
under
paragraph 3(b)

(13) For the purposes of this section, the amount determined under paragraph 3(b) in respect of an individual for a period throughout which he was not resident in Canada is nil."

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years except that

(a) in applying it to the 1985 taxation year

(i) paragraph 110.6(2)(d) of the said Act, as enacted by subsection (1), shall be read as follows:

"(d) the amount, if any, by which

(12) Nonobstant les autres dispositions de la présente loi, une fiducie visée à l'alinéa 104(4)a) peut déduire en vertu du présent article le moindre des montants suivants dans le calcul de son revenu imposable pour l'année d'imposition de la fiducie au cours de laquelle est décédé le conjoint du contribuable mentionné à cet alinéa :

a) l'excédent éventuel des gains en capital imposables admissibles (au sens de l'alinéa 108(1)d.2)) de la fiducie pour cette année sur l'excédent éventuel

(i) du montant éventuel calculé selon l'alinéa b) de la définition de «plafond des gains cumulatifs» au paragraphe (1) à l'égard du conjoint du contribuable à la fin de l'année d'imposition au cours de laquelle ce conjoint est décédé

sur

(ii) le montant éventuel calculé selon l'alinéa a) de la définition de «plafond des gains cumulatifs» au paragraphe (1) à l'égard du conjoint du contribuable à la fin de l'année d'imposition au cours de laquelle ce conjoint est décédé;

b) l'excédent éventuel de 250 000 \$ sur le total des montants dont chacun représente un montant déduit par le conjoint du contribuable en vertu du présent article pour l'année d'imposition au cours de laquelle ce conjoint est décédé ou pour une année d'imposition antérieure.

(13) Pour l'application du présent article, le montant calculé selon l'alinéa 3b) à l'égard d'un particulier pour une période tout au long de laquelle il ne réside pas au Canada est nul."

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes; toutefois :

a) pour l'application de ce paragraphe à l'année d'imposition 1985,

(i) l'alinéa 110.6(2)d) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :

«d) l'excédent éventuel

Déduction dans
le calcul du
revenu
imposable d'une
fiducie au profit
exclusif du
conjoint

Calcul selon
l'alinéa 3b)

- (i) the amount that would be determined in respect of the individual for the year under paragraph 3(b) in respect of capital gains and capital losses if the only properties referred to in that paragraph were qualified farm properties disposed of by him after 1984 5
- exceeds
- (ii) the amount, if any, by which 10
- (A) the aggregate of all amounts deducted under subsection 146(5.3) in computing his income for the year in respect of his capital gains for the year from the disposition of 15 property in the year
- exceeds
- (B) the aggregate of all amounts included under subsection 146(8) in computing his income for the 20 year.”, and
- (ii) that portion of the definition of “annual gains limit” in subsection 110.6(1) of the said Act, as enacted by subsection (1), following paragraph (a) 25 thereof shall be read as follows:
- “exceeds the aggregate of
- (b) the amount of his net capital losses for other taxation years deducted in computing his taxable income 30 for the year under paragraph 111(1)(b),
- (c) the aggregate of all his allowable business investment losses for the year, and 35
- (d) the amount, if any, by which
- (i) the aggregate of all amounts deducted under subsection 146(5.3) in computing his income for the year in respect of his capital gains 40 for the year from the disposition of property in the year
- exceeds
- (ii) the aggregate of all amounts included under subsection 146(8) in 45 computing his income for the year;”, and
- (b) in applying subsection (1) to the taxation years ending after 1984 and before 1990 50
- (i) du montant qui serait obtenu selon l’alinéa 3b) à l’égard de ce particulier pour l’année au titre des gains en capital et pertes en capital si les seuls biens visés à cet alinéa étaient 5 des biens agricoles admissibles dont ce particulier disposait après 1984
- sur
- (ii) l’excédent éventuel
- (A) du total des montants qu’il 10 déduit selon le paragraphe 146(5.3) dans le calcul de son revenu pour l’année au titre des gains en capital qu’il réalise pour l’année sur la disposition de biens dans l’année 15
- sur
- (B) le total des montants qu’il inclut selon le paragraphe 146(8) dans le calcul de son revenu pour l’année.”, et 20
- (ii) le passage de la définition de «plafond annuel des gains» au paragraphe 110.6(1) de la même loi, édicté par le paragraphe (1), qui suit l’alinéa a) est remplacé par ce qui suit : 25
- «sur le total des montants suivants :
- b) du montant des pertes en capital nettes qu’il subit pour d’autres années d’imposition, déduit selon l’alinéa 111(1)b) dans le calcul de son revenu 30 imposable pour l’année;
- c) le total des pertes déductibles au titre d’un placement d’entreprise qu’il subit pour l’année;
- d) l’excédent éventuel 35
- (i) du total des montants qu’il déduit selon le paragraphe 146(5.3) dans le calcul de son revenu pour l’année au titre des gains en capital qu’il réalise pour l’année sur la dis- 40 position de biens dans l’année
- sur
- (ii) le total des montants qu’il inclut selon le paragraphe 146(8) dans le calcul de son revenu pour 45 l’année;»;
- b) pour l’application du paragraphe (1) aux années d’imposition se terminant après 1984 et avant 1990,

(i) paragraph 110.6(3)(a) of the said Act, as enacted by subsection (1), shall be read as follows:

“(a) the amount, if any, by which the allowable exemption for the year exceeds the aggregate of all amounts each of which is an amount deducted by the individual under this subsection in computing his taxable income for a preceding taxation year and, for the purposes of this paragraph, “allowable exemption” for a taxation year means

- (i) for the 1985 taxation year, \$10,000,
- (ii) for the 1986 taxation year, \$25,000,
- (iii) for the 1987 taxation year, \$50,000,
- (iv) for the 1988 taxation year, \$100,000, and
- (v) for the 1989 taxation year, \$150,000;”, and

(ii) paragraph 110.6(12)(b) of the said Act, as enacted by subsection (1), shall be read as follows:

“(b) the amount, if any, by which the allowable exemption (within the meaning assigned by paragraph (3)(a)) for the taxation year in which the spouse died exceeds the aggregate of all amounts each of which is an amount deducted by the spouse under this section for the taxation year in which the spouse died or a preceding taxation year.”.

59. (1) Paragraph 111(1)(b) of the said Act is repealed and the following substituted therefor:

“(b) his net capital losses for taxation years preceding and the three taxation years immediately following the year, but no amount is deductible for the year in respect of net capital losses except to the extent of the aggregate of

- (i) the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the year, and
- (ii) where the taxpayer is an individual, the lesser of

(i) l'alinéa 110.6(3)(a) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :

«a) l'excédent éventuel de l'exonération admissible pour l'année sur le total des montants dont chacun représente un montant déduit par le particulier selon le présent paragraphe dans le calcul de son revenu imposable pour une année d'imposition antérieure; pour l'application du présent alinéa, «exonération admissible» pour une année d'imposition équivaut :

- (i) à 10 000 \$ pour l'année d'imposition 1985,
- (ii) à 25 000 \$ pour l'année d'imposition 1986,
- (iii) à 50 000 \$ pour l'année d'imposition 1987,
- (iv) à 100 000 \$ pour l'année d'imposition 1988,
- (v) à 150 000 \$ pour l'année d'imposition 1989;», et

(ii) l'alinéa 110.6(12)(b) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :

«b) l'excédent éventuel de l'exonération admissible au sens de l'alinéa (3)a) pour l'année d'imposition où le conjoint est décédé sur le total des montants dont chacun représente un montant déduit par le conjoint en vertu du présent article pour l'année d'imposition où il est décédé ou pour une année d'imposition antérieure.».

59. (1) L'alinéa 111(1)(b) de la même loi est abrogé et remplacé par ce qui suit :

«b) les pertes en capital nettes que le contribuable subit pour les années d'imposition précédentes et pour les trois années d'imposition qui suivent l'année; toutefois, la somme déductible pour l'année au titre des pertes en capital nettes ne l'est que jusqu'à concurrence du total :

- (i) du montant éventuel calculé selon l'alinéa 3b) à l'égard du contribuable pour l'année, et

Net capital losses

Pertes en capital nettes

(A) \$2,000, and
(B) his pre-1986 capital loss balance for the year;"

(ii) si le contribuable est un particulier, du moindre :

(A) de 2 000 \$,

(B) du solde pour l'année des pertes en capital subies avant 1986 par le contribuable;

(2) Subsection 111(2) of the said Act is repealed and the following substituted therefor:

(2) Le paragraphe 111(2) de la même loi est abrogé et remplacé par ce qui suit :

Net capital losses

"(2) Where a taxpayer dies in a taxation year, for the purposes of computing his taxable income for that year and the immediately preceding taxation year, 10 paragraph (1)(b) shall be read as follows:

«(2) En cas de décès d'un contribuable dans une année d'imposition, l'alinéa (1)b) 10 est remplacé par ce qui suit aux fins du calcul du revenu imposable de ce contribuable pour cette année et pour l'année d'imposition précédente :

Pertes en capital nettes en cas de décès

"(b) his net capital losses for all taxation years not deducted by him in computing his taxable income for any other taxation year to the extent of the aggregate of

«b) les pertes en capital nettes que le 15 contribuable subit pour toutes les années d'imposition et qu'il n'a pas déduites dans le calcul de son revenu imposable pour une autre année d'imposition, jusqu'à concurrence du total :

(i) the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the year, and
(ii) the amount, if any, by which the aggregate of such net capital losses exceeds the aggregate of the amount, if any, determined under subparagraph (i) in respect of the taxpayer for the year and the aggregate of all amounts each of which is an amount deducted by the taxpayer under section 110.6 in computing his taxable income for a taxation year;"

(i) du montant éventuel calculé selon l'alinéa 3b) à l'égard du contribuable pour l'année, et
(ii) de l'excédent éventuel du total de ces pertes en capital nettes sur le total 25 du montant éventuel calculé selon le sous-alinéa (i) à l'égard du contribuable pour l'année et du total des montants dont chacun représente un montant déduit par le contribuable selon 30 l'article 110.6 dans le calcul de son revenu imposable pour une année d'imposition;»

(3) Subparagraph 111(8)(a)(i) of the said Act is repealed and the following substituted therefor:

(3) Le sous-alinéa 111(8)a)(i) de la même loi est abrogé et remplacé par ce qui suit : 35

"(i) the amount, if any, by which
(A) the amount, if any, determined under subparagraph 3(b)(ii) in respect of the taxpayer for the year exceeds
(B) the aggregate determined under subparagraph 3(b)(i) in respect of the taxpayer for the year, 40 and"

«(i) de l'excédent éventuel
(A) du montant éventuel calculé selon le sous-alinéa 3b)(ii) à l'égard du contribuable pour l'année 40

sur
(B) le total calculé selon le sous-alinéa 3b)(i) à l'égard du contribuable pour l'année, et»

(4) Clause 111(8)(b)(i)(A) of the said Act is repealed and the following substituted therefor:

(4) La division 111(8)b)(i)(A) de la même loi est abrogée et remplacée par ce qui suit : 45

“(A) the aggregate of all amounts each of which is the taxpayer’s loss for the year from an office, employment, business or property, his allowable business investment loss 5 for the year or an amount deductible under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j), section 110.6 or 112 or subsection 113(1) or 138(6) in computing his taxable 10 income for the year”

«(A) du total des sommes dont chacune représente la perte que le contribuable a subie pour l’année relativement à une charge, un emploi, une entreprise ou un bien, sa perte 5 déductible au titre d’un placement d’entreprise pour l’année ou une somme déductible en vertu de l’alinéa 110(1)d), d.1), d.2), d.3), f) ou j), de l’article 110.6 ou 112 ou du 10 paragraphe 113(1) ou 138(6) dans le calcul de son revenu imposable pour l’année»

(5) Subsection 111(8) of the said Act is further amended by striking out the word “and” at the end of paragraph (b.1) thereof and by adding thereto, immediately after 15 paragraph (b.1) thereof, the following paragraph:

(5) Le paragraphe 111(8) de la même loi est modifié par suppression du mot «et» à la 15 fin de l’alinéa b.1) et par insertion, après cet alinéa, de ce qui suit :

pre-1986
capital loss
balance”

“(b.2) “pre-1986 capital loss balance” of an individual for a particular taxation year means the amount, if any, by which 20 the total of

(i) the aggregate of all amounts each of which is the amount, if any, by which

(A) his net capital loss for a taxation year ending before 1985 exceeds

(B) the aggregate of amounts deducted by him under this section in respect of that loss in computing 30 his taxable income for taxation years preceding the particular taxation year, and

(ii) the amount, if any, by which the lesser of 35

(A) the amount of his net capital loss for the 1985 taxation year, and

(B) the amount, if any, by which the amount determined under subparagraph 3(e)(ii) in respect of the 40 individual for the 1985 taxation year exceeds the amount deductible by virtue of paragraph 3(e) in computing his taxable income for the 45 1985 taxation year

exceeds

(C) the aggregate of amounts deducted by him under this section

«b.2) «solde des pertes en capital subies avant 1986» s’entend, à l’égard d’un particulier pour une année d’imposition 20 donnée, de l’excédent éventuel du total :

(i) du total des montants dont chacun représente l’excédent éventuel

(A) de la perte en capital nette que ce particulier a subie pour une 25 année d’imposition se terminant avant 1985

sur

(B) le total des montants qu’il a déduits en vertu du présent article 30 au titre de cette perte dans le calcul de son revenu imposable pour les années d’imposition précédant l’année d’imposition donnée, et

(ii) de l’excédent éventuel du moins 35

(A) du montant de la perte en capital nette que le particulier a subie pour l’année d’imposition 1985,

(B) de l’excédent éventuel du montant calculé selon le sous-alinéa 3e)(ii) à l’égard du particulier pour l’année d’imposition 1985 sur le montant déductible en vertu de l’alinéa 3e) dans le calcul de son 45 revenu imposable pour l’année d’imposition 1985,

sur

«solde des
pertes en
capital subies
avant 1986»

in respect of his net capital loss for the 1985 taxation year in computing his taxable income for taxation years preceding the particular taxation year,

exceeds the aggregate of amounts deducted under section 110.6 in computing his taxable income for taxation years preceding the particular taxation year; and"

5

10

(C) le total des montants qu'il a déduits selon le présent article au titre de la perte en capital nette qu'il a subie pour l'année d'imposition 1985 dans le calcul de son revenu imposable pour les années d'imposition précédant l'année d'imposition donnée,

sur le total des montants déduits selon l'article 110.6 dans le calcul de son revenu imposable pour les années d'imposition précédant l'année d'imposition donnée;»

(6) Subsection (1) is applicable for the purposes of computing taxable income for the 1985 and subsequent taxation years and for the purposes of determining the deductibility of losses for the 1985 and subsequent taxation years in computing taxable income for the 1984 and preceding taxation years, except that for the 1985 taxation year paragraph 111(1)(b) of the said Act, as enacted by subsection (1), shall be read as follows:

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(6) Le paragraphe (1) s'applique aux fins du calcul du revenu imposable pour les années d'imposition 1985 et suivantes et aux fins du calcul de la déductibilité des pertes pour les années d'imposition 1985 et suivantes dans le calcul du revenu imposable pour l'année d'imposition 1984 et les années d'imposition précédentes; toutefois, pour l'année d'imposition 1985, l'alinéa 111(1)b) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :

"(b) his net capital losses for taxation years preceding and the three taxation years immediately following the year, but no amount is deductible for the year in respect of net capital losses except to the extent of the aggregate of

(i) the amount, if any, determined under paragraph 3(b) in respect of the taxpayer for the year, and

(ii) where the taxpayer is an individual, the amount, if any, by which the lesser of

(A) \$2,000, and

(B) his pre-1986 capital loss balance for the year,

exceeds the lesser of the amounts determined in respect of him for the year under subparagraphs 3(e)(i) and (ii);"

35

«b) les pertes en capital nettes que le contribuable subit pour les années d'imposition précédentes et pour les trois années d'imposition qui suivent l'année; toutefois, la somme déductible pour l'année au titre des pertes en capital nettes ne l'est que jusqu'à concurrence du total :

(i) du montant éventuel calculé selon l'alinéa 3b) à l'égard du contribuable pour l'année, et

35

(ii) si le contribuable est un particulier, de l'excédent éventuel du moindre :

(A) de 2 000 \$,

(B) du solde pour l'année des pertes en capital nettes subies avant 1986 par le contribuable,

sur le moindre des montants calculés à son égard pour l'année selon les sous-alinéas 3e)(i) et (ii);»

45

(7) Subsection (2) is applicable to the 1985 and subsequent taxation years except that for the 1985 taxation year subsection 111(2) of the said Act shall be read as follows:

40

(7) Le paragraphe (2) s'applique aux années d'imposition 1985 et suivantes; toutefois, pour l'année d'imposition 1985, le paragraphe 111(2) de la même loi est remplacé par ce qui suit :

50

“(2) Where a taxpayer dies in the 1985 taxation year

(a) for the purpose of computing his taxable income for the 1985 taxation year and the 1984 taxation year, paragraph (1)(b) shall be read as “his net capital losses for taxation years preceding and the taxation year immediately following the year”;

(b) for the purpose of determining his net capital loss for the 1985 taxation year, clause (8)(a)(i)(B), as it is required to be read in its application to that year, shall be read without reference to

- (i) the words “the least of”, and
- (ii) subclauses (I) and (II) thereof;

and

(c) for the purpose of determining his net capital loss for the 1984 taxation year, subparagraph (8)(a)(ii), as it read in 1984, shall be read without reference to

- (i) the words “the lesser of”, and
- (ii) clause (A) thereof.”

(8) Subsection (3) is applicable to the 1985 and subsequent taxation years except that for the 1985 taxation year subparagraph 111(8)(a)(i) of the said Act, as enacted by subsection (3), shall be read as follows:

“(i) the amount, if any, by which (A) the amount determined under subparagraph 3(e)(i) in respect of the taxpayer for the year

exceeds

(B) the least of

- (I) the amount determined under subparagraph 3(e)(ii),
- (II) the amount determined under subparagraph 3(e)(iii),
- and
- (III) the amount determined under paragraph 3(d)

in respect of the taxpayer for the year, and”

«(2) En cas de décès d'un contribuable au cours de l'année d'imposition 1985,

a) aux fins du calcul de son revenu imposable pour l'année d'imposition 1985 et pour l'année d'imposition 1984, l'alinéa (1)b) est remplacé par ce qui suit :

«les pertes en capital nettes que le contribuable subit pour les années d'imposition qui précèdent l'année d'imposition et pour l'année d'imposition qui suit l'année d'imposition;»;

b) aux fins du calcul de la perte en capital nette que le contribuable subit pour l'année d'imposition 1985, il n'est tenu compte à la division (8)a)(i)(B) telle que remplacée pour cette année d'imposition :

- (i) ni des mots «le moindre des montants suivants»,
- (ii) ni des subdivisions (I) et (II);

c) aux fins du calcul de la perte en capital nette que le contribuable subit pour l'année d'imposition 1984, il n'est tenu compte au sous-alinéa (8)a)(ii) :

- (i) ni des mots «du moindre»,
- (ii) ni de la division (A).»

(8) Le paragraphe (3) s'applique aux années d'imposition 1985 et suivantes; toutefois, pour l'année d'imposition 1985, le sous-alinéa 111(8)a)(i) de la même loi, édicté par le paragraphe (3), est remplacé par ce qui suit :

«(i) de l'excédent éventuel

(A) du montant calculé selon le sous-alinéa 3e)(i) à l'égard du contribuable pour l'année

sur

(B) le moindre des montants suivants à l'égard du contribuable pour l'année :

- (I) le montant calculé selon le sous-alinéa 3e)(ii),
- (II) le montant calculé selon le sous-alinéa 3e)(iii),
- (III) le montant calculé selon l'alinéa 3d), et»

(9) Subsections (4) and (5) are applicable to the 1985 and subsequent taxation years except that for the 1985 taxation year clause 111(8)(b)(i)(A) of the said Act, as enacted by subsection (4), shall be read as follows:

“(A) the aggregate of all amounts each of which is the taxpayer’s loss for the year from an office, employment, business or property, his allowable business investment loss 10 for the year, the amount determined under subparagraph 3(d)(ii) in respect of the taxpayer for the year or an amount deductible under paragraph 110(1)(d), (d.1), (d.2), 15 (d.3), (f) or (j), section 110.6 or 112 or subsection 113(1) or 138(6) in computing his taxable income for the year”

(9) Les paragraphes (4) et (5) s’appliquent aux années d’imposition 1985 et suivantes; toutefois, pour l’année d’imposition 1985, la division 111(8)b(i)(A) de la même loi, édictée par le paragraphe (4), est remplacée par ce qui suit : 5

«(A) du total des sommes dont chacune représente la perte que le contribuable a subie pour l’année relativement à une charge, un emploi, 10 une entreprise ou un bien, sa perte déductible au titre d’un placement d’entreprise pour l’année, le montant calculé selon le sous-alinéa 3d(ii) à l’égard du contribuable 15 pour l’année ou une somme déductible en vertu de l’alinéa 110(1)d), d.1), d.2), d.3), f) ou j), de l’article 110.6 ou 112 ou du paragraphe 113(1) ou 138(6) dans le calcul de 20 son revenu imposable pour l’année»

60. (1) Section 111.1 of the said Act is 20 repealed and the following substituted therefor:

“111.1 In computing the taxable income of an individual for a taxation year, the provisions of this division shall be 25 applied in the following order: subsection 110.4(2), sections 109, 110.1, 110.2, 110, 110.3, 111 and 110.6 and subsection 110.4(1).”

(2) Subsection (1) is applicable to the 30 1985 and subsequent taxation years.

61. (1) Subsection 112(2.2) of the said Act is amended by adding the word “or” at the end of paragraph (e) thereof and by repealing paragraph (f) thereof.

(2) All that portion of subsection 112(4) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

“(4) Where a taxpayer owns a share 40 that is not a capital property and receives a dividend in respect of that share, the amount of any loss of the taxpayer arising from transactions with reference to the share on which the dividend was received 45

60. (1) L’article 111.1 de la même loi est abrogé et remplacé par ce qui suit :

«111.1 Dans le calcul du revenu imposable d’un particulier pour une année d’im- 25 position, les dispositions de la présente section s’appliquent dans l’ordre suivant : paragraphe 110.4(2), articles 109, 110.1, 110.2, 110, 110.3, 111 et 110.6 et paragraphe 110.4(1).» 30

(2) Le paragraphe (1) s’applique aux années d’imposition 1985 et suivantes.

61. (1) Le paragraphe 112(2.2) de la même loi est modifié par adjonction du mot «ou» à la fin de l’alinéa e) et par abrogation 35 de l’alinéa f).

(2) Le passage du paragraphe 112(4) de la même loi qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :

«(4) Lorsqu’un contribuable reçoit un 40 dividende sur une action qui lui appartient et qui n’est pas un bien en immobilisation, le montant de toute perte subie par ce contribuable qui résulte d’opérations relatives à l’action sur laquelle le dividende a 45

Order of
applying
provision

Ordre
d’application

Loss on share
that is not
capital property

Perte sur une
action qui n’est
pas un bien en
immobilisation

shall, unless it is established by the taxpayer that”

(3) All that portion of subsection 112(4.1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

fair market
value of share
that is not
capital property

“(4.1) Where a taxpayer (other than a prescribed trust) or partnership (in this subsection referred to as the “holder”) holds a share that is not a capital property 10 and a dividend is received in respect of that share, for the purpose of subsection 10(1) and any regulations made thereunder, the fair market value of the share at any particular time after November 12, 15 1981 shall, unless it is established by the holder that”

(4) Subsection (1) is applicable with respect to shares issued after May 23, 1985 other than shares issued pursuant to an 20 agreement in writing entered into on or before May 23, 1985 and shares distributed to the public in accordance with the terms of a prospectus, preliminary prospectus or registration statement filed before May 24, 1985 25 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by such authority. 30

(5) Subsections (2) and (3) are applicable with respect to dividends received after 1985.

62. (1) Paragraph 114(a) of the said Act is repealed and the following substituted therefor: 35

“(a) his income for the period or periods in the year during which he was resident in Canada, was employed in Canada or was carrying on business in Canada, computed as though such 40 period or periods were the whole taxation year and as though any disposition of property deemed by subsection 48(1) to have been made by virtue of the taxpayer having ceased to be resident in 45 Canada were made in such period or periods, and”

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

été reçu est réputé être, sauf si le contribuable prouve»

(3) Le passage du paragraphe 112(4.1) de la même loi qui précède l’alinéa a) est abrogé 5 et remplacé par ce qui suit :

«(4.1) Lorsqu’un contribuable (à l’exclusion d’une fiducie prescrite) ou une société — appelés «détenteur» au présent paragraphe — reçoit un dividende sur une action qu’il détient et qui n’est pas un bien 10 en immobilisation, la juste valeur marchande de l’action à une date donnée après le 12 novembre 1981 est réputée, pour l’application du paragraphe 10(1) et des règlements pris en application de ce para- 15 graphe, sauf si le détenteur prouve»

Juste valeur
marchande
d’une action qui
n’est pas un
bien en
immobilisation

(4) Le paragraphe (1) s’applique aux actions émises après le 23 mai 1985, à l’ex- 20 clusion des actions émises conformément à un accord écrit conclu le 23 mai 1985 ou 20 avant et des actions faisant l’objet d’un appel public à l’épargne conformément à un prospectus, à un prospectus préliminaire ou à une déclaration d’enregistrement, produit avant le 24 mai 1985 auprès d’un organisme public 25 du Canada suivant la législation fédérale ou provinciale sur les valeurs mobilières et, si la loi le prévoit, approuvé par un tel organisme.

(5) Les paragraphes (2) et (3) s’appliquent aux dividendes reçus après 1985. 30

62. (1) L’alinéa 114a) de la même loi est abrogé et remplacé par ce qui suit :

«a) de son revenu pour la ou les périodes de l’année où il résidait au Canada, y occupait un emploi ou y exploitait une 35 entreprise, calculé comme si cette ou ces périodes constituaient l’année d’imposition tout entière et comme si une disposition de bien, réputée en vertu du paragraphe 48(1) avoir été effectuée parce 40 que le contribuable a cessé de résider au Canada, avait été effectuée dans cette ou ces périodes, et»

(2) Le paragraphe (1) s’applique aux 45 années d’imposition 1986 et suivantes.

63. (1) Paragraph 115(1)(d) of the said Act is repealed and the following substituted therefor:

“(d) the deductions permitted by paragraphs 110(1)(a), (b), (b.1), (d), (d.1), (d.2), (e), (f) and (i),” 5

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

64. (1) Subsection 117(6) of the said Act is repealed and the following substituted 10 therefor:

“(6) An individual (other than an individual of a prescribed class) whose amount taxable for a taxation year does not exceed a prescribed amount may use a 15 table prepared in accordance with prescribed rules in computing the amount that would, but for sections 120.1, 127 and 127.2 to 127.4, be his tax payable under this Part for the year.” 20

(2) Paragraphs 117(7)(a) and (b) of the said Act are repealed and the following substituted therefor:

“(a) the tax that would be payable by the taxpayer if the taxpayer could 25 deduct in computing his taxable income for the year a payment described in paragraph 110(1)(c) in respect of any person who would be a dependant (in respect of whom the taxpayer could 30 make a deduction from his income for the year) if that person's income for the year were not in excess of \$1,600, and
(b) 68% of the amount by which the income of the person described in para- 35 graph (a) exceeds \$1,600,”

(3) Subsection (1) is applicable to the 1985 and subsequent taxation years except that, in its application to the 1985 taxation year, subsection 117(6) of the said Act, as 40 enacted by subsection (1), shall be read as follows:

“(6) An individual (other than an individual of a prescribed class) whose amount taxable for a taxation year does 45 not exceed a prescribed amount may use a

63. (1) L'alinéa 115(1)d) de la même loi est abrogé et remplacé par ce qui suit :

«d) des déductions permises en vertu des alinéas 110(1)a), b), b.1), d), d.1), d.2), e), f) et i),» 5

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

64. (1) Le paragraphe 117(6) de la même loi est abrogé et remplacé par ce qui suit :

«(6) Un particulier (qui n'est pas d'une 10 Table spéciale catégorie prescrite) dont le montant imposable pour une année d'imposition ne dépasse pas un montant prescrit peut calculer le montant qui représenterait, sans les articles 120.1, 127 et 127.2 à 127.4, son 15 impôt payable en vertu de la présente partie pour l'année, en se servant d'une table établie conformément aux règles prescrites.»

(2) Les alinéas 117(7)a) et b) de la même 20 loi sont abrogés et remplacés par ce qui suit :

«a) de l'impôt qui serait payable par le contribuable si celui-ci pouvait déduire 25 dans le calcul de son revenu imposable pour l'année un paiement visé à l'alinéa 25 110(1)c) relativement à toute personne qui serait une personne à charge (à l'égard de laquelle le contribuable pourrait effectuer une déduction sur son revenu pour l'année) si le revenu de 30 cette personne pour l'année ne dépassait pas 1 600 \$, et

b) du montant correspondant à 68 % de l'excédent du revenu de la personne visée à l'alinéa a) sur 1 600 \$,» 35

(3) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes; toutefois, pour son application à l'année d'imposition 1985, le paragraphe 117(6) de la même loi, édicté par le paragraphe (1), est rem- 40 placé par ce qui suit :

«(6) Un particulier (qui n'est pas d'une catégorie prescrite) dont le montant imposable pour une année d'imposition ne dépasse pas un montant prescrit peut cal- 45

table prepared in accordance with prescribed rules in computing the amount that would, but for sections 120.1, 127 and 127.2 to 127.4 and the excess referred to in paragraph 120(3.1)(a), be his tax payable under this Part for the year.” 5

(4) Subsection (2) is applicable to the 1986 and subsequent taxation years.

65. (1) Paragraph 117.1(1)(a) of the said Act is repealed and the following substituted 10 therefor:

“(a) the amounts of \$1,400 and \$550 referred to in section 109 and the amount of \$1,600 referred to in that section and subsection 117(7),” 15

(2) All that portion of subsection 117.1(1) of the said Act following paragraph (c) thereof is repealed and the following substituted therefor:

“shall be adjusted for each taxation year 20 so that the amount to be used for the year is an amount equal to the aggregate of

(d) the amount that would, but for subsection (6), be the amount to be used for the immediately preceding taxation 25 year, and

(e) the product obtained by multiplying

(i) the amount referred to in paragraph (d)

by 30

(ii) the amount, adjusted in such manner as may be prescribed and rounded to the nearest one-thousandth, that is determined by the formula 35

$$\frac{A}{B} - 1.03$$

where

A is the Consumer Price Index for the 12 month period that ended on 40 September 30 next before that year, and

B is the Consumer Price Index for the 12 month period immediately preceding the period mentioned in 45 the description of A.”

culer le montant qui représenterait, sans les articles 120.1, 127 et 127.2 à 127.4 et le deuxième excédent visé à l'alinéa 120(3.1)a), son impôt payable en vertu de la présente partie pour l'année, en se servant d'une table établie conformément aux règles prescrites.» 5

(4) Le paragraphe (2) s'applique aux années d'imposition 1986 et suivantes.

65. (1) L'alinéa 117.1(1)a) de la même loi 10 est abrogé et remplacé par ce qui suit :

«a) les sommes de 1 400 \$ et 550 \$ visées à l'article 109 ainsi que la somme de 1 600 \$ visée à cet article et au paragraphe 117(7),» 15

(2) Le passage du paragraphe 117.1(1) de la même loi qui suit l'alinéa c) est abrogé et remplacé par ce qui suit :

«doit être rajustée pour chaque année d'imposition de façon que la somme à 20 utiliser pour l'année soit égale au total :

d) de la somme qui, sans le paragraphe (6), serait la somme à utiliser pour l'année d'imposition précédente, et

e) du produit obtenu en multipliant 25
(i) la somme visée à l'alinéa d)

par

(ii) le montant déterminé par la formule suivante, rajusté de la manière prescrite et arrondi à la troisième 30 décimale la plus proche :

$$\frac{A}{B} - 1,03$$

où

A représente l'indice des prix à la 35 consommation pour la période de 12 mois se terminant le 30 septembre précédant l'année;

B représente l'indice des prix à la consommation pour la période de 40 12 mois qui précède la période visée en A.»

(3) Subsection 117.1(1.1) of the said Act is repealed and the following substituted therefor:

“(1.1) The amounts of \$524 and \$23,500 referred to in subsection 122.2(1) shall be adjusted for each taxation year so that the amount to be used for the year is the aggregate of

(a) the amount that would, but for subsection (6), be the amount to be used for the immediately preceding taxation year; and

(b) the product obtained by multiplying (i) the amount referred to in paragraph (a)

by

(ii) the amount, adjusted in such manner as may be prescribed and rounded to the nearest one-thousandth, that is determined by the formula

$$\frac{A}{B} - 1.03$$

where

A is the Consumer Price Index for the 12 month period that ended on September 30 next before that year, and

B is the Consumer Price Index for the 12 month period immediately preceding the period mentioned in the description of A.”

(4) Subsection 117.1(2) of the said Act is repealed and the following substituted therefor:

“(2) The amount of \$200 referred to in subparagraphs 109(1)(a)(ii) and (b)(iv) as applicable for a taxation year shall be adjusted for the year so that the amount to be used for the year is the amount by which

(a) \$1,600, as adjusted and rounded under this section for the year, exceeds

(b) \$1,400, as adjusted and rounded under this section for the year.”

(3) Le paragraphe 117.1(1.1) de la même loi est abrogé et remplacé par ce qui suit :

«(1.1) Les sommes de 524 \$ et 23 500 \$ visées au paragraphe 122.2(1) doivent être rajustées pour chaque année d'imposition de façon que la somme à utiliser pour l'année soit égale au total :

a) de la somme qui, sans le paragraphe (6), serait la somme à utiliser pour l'année d'imposition précédente; et

b) du produit obtenu en multipliant (i) la somme visée à l'alinéa a)

par

(ii) le montant déterminé par la formule suivante, rajusté de la manière prescrite et arrondi à la troisième décimale la plus proche :

$$\frac{A}{B} - 1,03$$

où

A représente l'indice des prix à la consommation pour la période de 12 mois se terminant le 30 septembre précédant l'année;

B représente l'indice des prix à la consommation pour la période de 12 mois qui précède la période visée en A.»

(4) Le paragraphe 117.1(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) La somme de 200 \$ visée aux sous-alinéas 109(1)a)(ii) et b)(iv), applicable pour une année d'imposition, doit être rajustée pour l'année de façon que la somme à utiliser pour l'année soit l'excédent

a) de 1 600 \$, rajustés et arrondis conformément au présent article pour l'année,

sur b) 1 400 \$, rajustés et arrondis conformément au présent article pour l'année.»

(5) Subsections 117.1(3) to (5) of the said Act are repealed and the following substituted therefor:

“(3) The amount of \$1,050 referred to in paragraph 109(1)(d) as applicable for a taxation year shall be adjusted for the year so that the amount to be used for the year is the amount by which

(a) \$1,600, as adjusted and rounded under this section for the year, exceeds

(b) \$550, as adjusted and rounded under this section for the year.”

(6) Subsection 117.1(6) of the said Act is repealed and the following substituted therefor:

“(6) Where an amount referred to in paragraph (1)(c) or the amount of \$524 referred to in subsection (1.1) when adjusted as provided in this section is not a multiple of one dollar, it shall be rounded to the nearest multiple of one dollar or, if it is equidistant from two such multiples, to the higher thereof, and where any other amount referred to in this section is not a multiple of ten dollars when so adjusted, it shall be rounded to the nearest multiple of ten dollars or, if it is equidistant from two such multiples, to the higher thereof.”

(7) Subsection 117.1(8) of the said Act is repealed.

(8) Subsections (1), (2) and (4) to (7) are applicable to the 1986 and subsequent taxation years.

(9) Subsection (3) is applicable,

(a) in the case of the amount of \$524, to the 1989 and subsequent taxation years; and

(b) in the case of the amount of \$23,500, to the 1987 and subsequent taxation years.

66. (1) Subsection 120(3.1) of the said Act is repealed.

(2) Paragraph 120(4)(c) of the said Act is repealed and the following substituted therefor:

(5) Les paragraphes 117.1(3) à (5) de la même loi sont abrogés et remplacés par ce qui suit :

«(3) La somme de 1 050 \$ visée à l'alinéa 109(1)d), applicable pour une année d'imposition, doit être rajustée pour l'année de façon que la somme à utiliser pour l'année soit l'excédent

a) de 1 600 \$, rajustés et arrondis conformément au présent article pour l'année,

sur

b) 550 \$, rajustés et arrondis conformément au présent article pour l'année.»

(6) Le paragraphe 117.1(6) de la même loi est abrogé et remplacé par ce qui suit :

«(6) Dans le cas d'une somme visée à l'alinéa (1)c) ou de la somme de 524 \$ visée au paragraphe (1.1), rajustées conformément au présent article, les résultats sont arrêtés à l'unité, ceux qui ont au moins cinq en première décimale étant arrondis à l'unité supérieure; dans le cas des autres sommes visées au présent article, les résultats sont arrêtés à la dizaine, ceux qui ont au moins cinq à l'unité étant arrondis à la dizaine supérieure.»

(7) Le paragraphe 117.1(8) de la même loi est abrogé.

(8) Les paragraphes (1), (2) et (4) à (7) s'appliquent aux années d'imposition 1986 et suivantes.

(9) Le paragraphe (3) s'applique :

a) aux années d'imposition 1989 et suivantes, dans le cas de la somme de 524 \$;

b) aux années d'imposition 1987 et suivantes, dans le cas de la somme de 23 500 \$.

66. (1) Le paragraphe 120(3.1) de la même loi est abrogé.

(2) L'alinéa 120(4)c) de la même loi est abrogé et remplacé par ce qui suit :

"Tax otherwise payable under this Part"

"(c) "tax otherwise payable under this Part", in relation to a taxation year, means the amount that, but for this section and subsection 117(6), would be the tax payable by a taxpayer under this Part for the taxation year if the taxpayer were not entitled to any deduction under any of sections 126, 127, 127.2 and 127.4."

«c) «impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie», appliqué à une année d'imposition, s'entend du montant qui, sans le présent article et le paragraphe 117(6), serait l'impôt payable par un contribuable en vertu de la présente partie pour l'année d'imposition si celui-ci n'avait droit à aucune déduction en vertu d'un des articles 126, 127, 127.2 et 127.4.»

«impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie»

(3) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(3) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

(4) Subsection (2) is applicable to the 1985 and subsequent taxation years.

(4) Le paragraphe (2) s'applique aux années d'imposition 1985 et suivantes.

67. (1) Paragraph 122.2(1)(a) of the said Act is repealed and the following substituted therefor:

67. (1) L'alinéa 122.2(1)a) de la même loi 15 est abrogé et remplacé par ce qui suit :

"(a) the product obtained when \$524 is multiplied by the number of children each of whom was an eligible child of the individual for the year"

«a) du produit obtenu en multipliant 524 \$ par le nombre d'enfants admissibles du particulier pour l'année»

(2) Subparagraph 122.2(1)(b)(ii) of the said Act is repealed and the following substituted therefor:

(2) Le sous-alinéa 122.2(1)b)(ii) de la 20 même loi est abrogé et remplacé par ce qui suit :

"(ii) \$23,500"

«(ii) 23 500 \$»

(3) Subsections (1) and (2) are applicable to the 1986 and subsequent taxation years except that the reference to "\$524" in paragraph 122.2(1)(a) of the said Act, as enacted by subsection (1), shall be read as a reference to "\$454" for the 1986 taxation year and "\$489" for the 1987 taxation year.

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1986 et suivantes; 25 toutefois, la mention «524 \$» à l'alinéa 122.2(1)a) de la même loi, édicté par le paragraphe (1), est remplacée par la mention «454 \$» pour l'année d'imposition 1986 et par la mention «489 \$» pour l'année d'imposition 30 1987.

68. (1) Subparagraph 122.3(1)(e)(iii) of the said Act is repealed and the following substituted therefor:

68. (1) Le sous-alinéa 122.3(1)e)(iii) de la même loi est abrogé et remplacé par ce qui suit :

"(iii) the aggregate of all amounts each of which is an amount deducted by the individual under section 110.6 or paragraph 111(1)(b) or deductible by him under paragraph 110(1)(d.2), (d.3), (f) or (j) or section 110.1 for the year or in respect of the period or periods referred to in subparagraph (ii), as the case may be."

«(iii) le total des montants dont 35 chacun représente une somme déduite par le particulier en vertu de l'article 110.6 ou de l'alinéa 111(1)b) ou déductible par lui selon l'alinéa 110(1)d.2), d.3), f) ou j) ou de l'article 110.1 pour l'année ou pour une ou plusieurs périodes visées au sous-alinéa (ii), selon le cas.» 40

(2) Paragraph 122.3(2)(b) of the said Act is repealed and the following substituted therefor:

"Tax otherwise payable under this Part for the year"

"(b) "tax otherwise payable under this Part for the year" means the amount that, but for this section and sections 120, 120.1, 121, 126, 127 and 127.2 to 127.4, would be the tax payable under this Part for the year."

(3) Subsections (1) and (2) are applicable to the 1985 and subsequent taxation years.

69. (1) The said Act is further amended by adding thereto, immediately after section 123 thereof, the following section:

Corporation
surtax

"123.1 There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation (other than a corporation that was throughout the year an investment corporation or a non-resident-owned investment corporation) an amount equal to that proportion of 5% of the amount, if any, by which

(a) the tax payable under this Part by the corporation for the year determined without reference to paragraph 123(1)(b), this section, section 126 (except for the purposes of subsection 125(1) and section 125.1), subsections 127(3), (5) and (13), 127.2(1) and 127.3(1) and as if subsection 124(1) were read without reference to the words "in a province" therein

exceeds,

(b) in the case of a Canadian-controlled private corporation to which subsection 125(1) applies, the amount, if any, by which

(i) 15% of the least of the amounts, if any, determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year

exceeds

(ii) the amount, if any, determined under paragraph 125.1(1)(b) in respect of the corporation for the year,

(c) in the case of a mutual fund corporation, the least of the amounts that

(2) L'alinéa 122.3(2)(b) de la même loi est abrogé et remplacé par ce qui suit :

«b) «impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie» s'entend du montant qui, sans le présent article et les articles 120, 120.1, 121, 126, 127 et 127.2 à 127.4, serait l'impôt payable pour l'année en vertu de la présente partie.»

«impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie»

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1985 et suivantes.

69. (1) La même loi est modifiée par insertion, après l'article 123, de ce qui suit :

«123.1 Doit être ajouté à l'impôt payable par ailleurs en vertu de la présente partie pour chaque année d'imposition par une corporation (à l'exclusion d'une corporation qui a été tout au long de l'année une corporation de placement ou une corporation de placement appartenant à des non-résidents) un montant égal au produit obtenu en multipliant, par le rapport entre le nombre de jours de la partie de l'année qui tombe après le 30 juin 1985 et avant 1987, d'une part, et le nombre de jours de l'année, d'autre part, 5 % de l'excédent éventuel

Surtaxe des
corporations

a) de l'impôt payable en vertu de la présente partie par la corporation pour l'année, calculé sans tenir compte de l'alinéa 123(1)(b), du présent article, de l'article 126 (sauf pour l'application du paragraphe 125(1) et de l'article 125.1), des paragraphes 127(3), (5) et (13), 127.2(1) et 127.3(1), ni de la mention «dans une province» au paragraphe 124(1),

sur

b) l'excédent éventuel, dans le cas d'une corporation privée dont le contrôle est canadien à laquelle le paragraphe 125(1) s'applique,

(i) de 15 % du moins élevé des montants éventuels calculés selon les alinéas 125(1)(a) à c) pour la corporation pour l'année

sur

would be determined under clauses 131(6)(d)(i)(A) to (C) in respect of the corporation for the year if this Act were read without reference to this section, and

(d) in any other case, nil

that the number of days in that portion of the year that is after June 30, 1985 and before 1987 is of the number of days in the year."

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

70. (1) All that portion of subparagraph 126(1)(b)(i) of the said Act preceding clause (A) thereof is repealed and the following 15 substituted therefor:

"(i) the aggregate of the taxpayer's incomes from sources in that country, excluding any portion thereof that was deductible by him under subpara- 20 graph 110(1)(f)(i) or in respect of which an amount was deducted by him under section 110.6,"

(2) Subclauses 126(1)(b)(ii)(C)(I) and (II) of the said Act are repealed and the 25 following substituted therefor:

"(I) deducted by the taxpayer under paragraph 111(1)(b) or section 110.6, or
(II) deductible by the taxpayer 30 under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) or section 110.1, 112 or 113"

(3) Subclauses 126(2.1)(a)(ii)(C)(I) and (II) of the said Act are repealed and the 35 following substituted therefor:

"(I) deducted by the taxpayer under paragraph 111(1)(b) or section 110.6, or
(II) deductible by the taxpayer 40 under paragraph 110(1)(d), (d.1), (d.2), (d.3), (f) or (j) or section 110.1, 112 or 113"

(4) Subsection 126(3) of the said Act is repealed and the following substituted 45 therefor:

(ii) le montant éventuel calculé selon l'alinéa 125.1(1)b) pour la corporation pour l'année,

c) le moins élevé, dans le cas d'une corporation de fonds mutuels, des montants 5 qui seraient calculés selon les divisions 131(6)d)(i)(A) à (C) pour la corporation pour l'année s'il n'était pas tenu compte du présent article;

d) zéro, dans les autres cas.» 10

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

70. (1) Le passage du sous-alinéa 126(1)b)(i) de la même loi qui précède la 15 division (A) est abrogé et remplacé par ce qui suit :

«(i) le total des revenus que le contribuable a tirés de sources situées dans ce pays, à l'exception de toute partie qu'il pouvait déduire selon le sous-ali- 20 néa 110(1)f)(i) ou au titre de laquelle il a déduit un montant selon l'article 110.6,»

(2) Les subdivisions 126(1)b)(ii)(C)(I) et (II) de la même loi sont abrogées et rempla- 25 cées par ce qui suit :

«(I) déduit par le contribuable selon l'alinéa 111(1)b) ou l'arti- cle 110.6, ou
(II) déductible par le contribu- 30 ble selon l'alinéa 110(1)d), d.1), d.2), d.3), f) ou j) ou l'article 110.1, 112 ou 113»

(3) Les subdivisions 126(2.1)a)(ii)(C)(I) et (II) de la même loi sont abrogées et 35 remplacées par ce qui suit :

«(I) déduit par le contribuable selon l'alinéa 111(1)b) ou l'arti- cle 110.6, ou
(II) déductible par le contribu- 40 ble selon l'alinéa 110(1)d), d.1), d.2), d.3), f) ou j) ou l'article 110.1, 112 ou 113»

(4) Le paragraphe 126(3) de la même loi 45 est abrogé et remplacé par ce qui suit :

“(3) Where an individual is resident in Canada at any time in a taxation year, there may be deducted from his tax for the year otherwise payable under this Part an amount equal to that proportion of the tax for the year otherwise payable under this Part by him that

(a) his income

(i) for the year, where section 114 is not applicable to the individual in respect of the year, and

(ii) for the period or periods in the year referred to in paragraph 114(a), where section 114 is applicable to the individual in respect of the year,

from employment with an organization, as defined for the purposes of section 3 of the *Privileges and Immunities (International Organizations) Act*

is of

(b) the amount, if any, by which

(i) the aggregate of his income for the year and the amount, if any, included pursuant to subsection 110.4(2) in computing his taxable income for the year, where section 114 is not applicable to the individual in respect of the year, or

(ii) his income for the period or periods in the year referred to in paragraph 114(a), where section 114 is applicable to the individual in respect of the year,

exceeds

(iii) the aggregate of all amounts each of which is an amount deducted by the individual under section 110.6 or paragraph 111(1)(b), or deductible by the individual under paragraph 110(1)(d) or (f) or section 110.1 for the year or in respect of the period or periods referred to in subparagraph (ii), as the case may be,

except that where the organization referred to in paragraph (a) is neither the United Nations nor a specialized agency that is brought into relationship with the United Nations in accordance with Article 63 of the Charter of the United Nations, the amount deductible under this subsec-

«(3) Est déductible de l'impôt payable par ailleurs en vertu de la présente partie pour l'année par un particulier qui réside au Canada à une date quelconque d'une année d'imposition le produit obtenu en multipliant l'impôt payable par ailleurs pour l'année en vertu de la présente partie par ce particulier, par le rapport entre :

a) d'une part, son revenu d'emploi dans une organisation au sens de l'article 3 de 10 la *Loi sur les privilèges et immunités des organisations internationales*

(i) pour l'année, si l'article 114 ne s'applique pas au particulier pour l'année,

(ii) pour la ou les périodes de l'année mentionnées à l'alinéa 114a), si l'article 114 s'applique au particulier pour l'année;

b) d'autre part, l'excédent éventuel

(i) soit du total du revenu du particulier pour l'année et de l'excédent éventuel ajouté conformément au paragraphe 110.4(2) dans le calcul de son revenu imposable pour l'année, si l'article 114 ne s'applique pas au particulier pour l'année,

(ii) soit du revenu du particulier pour la ou les périodes de l'année mentionnées à l'alinéa 114a), si l'article 114 s'applique au particulier pour l'année,

sur

(iii) le total des sommes dont chacune représente une somme que le particulier déduit selon l'article 110.6 35 ou l'alinéa 111(1)b) ou qu'il peut déduire selon l'alinéa 110(1)d) ou f) ou l'article 110.1, pour l'année ou pour la ou les périodes mentionnées au sous-alinéa (ii), selon le cas; 40

toutefois, si l'organisation mentionnée à l'alinéa a) n'est ni l'Organisation des Nations Unies ni une institution spécialisée reliée à l'Organisation des Nations Unies en conformité avec l'article 63 de la 45 *Charte des Nations Unies*, le montant déductible par le particulier en vertu du présent paragraphe ne peut dépasser le produit obtenu en multipliant le total des montants versés par le particulier à cette 50 organisation à titre de contribution (dont

tion by the individual may not exceed that proportion of the aggregate of all amounts each of which is an amount paid by the individual to the organization as a levy (the proceeds of which are used to defray expenses of the organization) computed by reference to the remuneration received by him in the year from the organization in a manner similar to the manner in which income tax is computed that

(c) his income for the year from employment with the organization is of

(d) the amount that would be his income for the year from employment with the organization if this Act were read without reference to paragraph 81(1)(a)."

(5) Section 126 of the said Act is further amended by adding thereto, immediately after subsection (5) thereof, the following subsection:

"(5.1) Where in a taxation year an individual has claimed a deduction under section 110.6 in computing his taxable income for the year, for the purposes of this section he shall be deemed to have claimed the deduction under section 110.6 in respect of such taxable capital gains or portion thereof as he may specify in his return of income required to be filed pursuant to section 150 for the year or, where he has failed to so specify, in respect of such taxable capital gains as the Minister may specify in respect of the taxpayer for the year."

(6) Paragraph 126(7)(c) of the said Act is amended by striking out the word "or" at the end of subparagraph (v) thereof, by adding the word "or" at the end of subparagraph (vi) thereof and by adding thereto the following subparagraph:

"(vii) that may reasonably be attributed to a taxable capital gain or a portion thereof in respect of which the taxpayer has claimed a deduction for the year under section 110.6;"

le produit est utilisé pour défrayer les dépenses de l'organisation) et calculés de la même façon que l'impôt sur le revenu, c'est-à-dire en fonction du traitement que le particulier reçoit de l'organisation dans l'année, par le rapport entre :

c) d'une part, son revenu d'emploi dans l'organisation pour l'année;

d) d'autre part, le montant qui serait son revenu d'emploi dans l'organisation s'il n'était pas tenu compte de l'alinéa 81(1)a)."

(5) L'article 126 de la même loi est modifié par insertion, après le paragraphe (5), de ce qui suit :

"(5.1) Le particulier qui, dans une année d'imposition, demande une déduction selon l'article 110.6 dans le calcul de son revenu imposable pour l'année est réputé, pour l'application du présent article, demander la déduction selon l'article 110.6 au titre de tout ou partie des gains en capital imposables qu'il indique dans la déclaration de revenu qu'il est tenu de produire conformément à l'article 150 pour l'année ou, s'il n'en indique pas, au titre des gains en capital imposables que le ministre indique à l'égard du contribuable pour l'année."

(6) L'alinéa 126(7)c) de la même loi est modifié par suppression du mot «ou» à la fin du sous-alinéa (v), par adjonction de ce mot à la fin du sous-alinéa (vi) et par adjonction de ce qui suit :

"(vii) qu'il est raisonnable d'attribuer à tout ou partie d'un gain en capital imposable, au titre duquel le contribuable demande une déduction pour l'année selon l'article 110.6;"

Déduction pour les seuls gains en capital indiqués

Deductions for specified capital gains

(7) Subparagraphs 126(7)(d)(i) to (iii) of the said Act are repealed and the following substituted therefor:

“(i) in paragraph (1)(b) and subsection (3), the amount, if any, by which the tax for the taxation year otherwise payable under this Part before making any addition under section 120.1 and any deduction under any of sections 120.1, 121, 122.3, 125 to 127 and 127.2 to 127.4 exceeds the amount, if any, deemed by subsection 120(2) to have been paid on account of tax under this Part for the year, 5
(ii) in subparagraph (2)(c)(i) and paragraph (2.2)(b), the tax for the taxation year otherwise payable under this Part before making any addition under section 120.1 and any deduction under any of sections 120.1, 121, 122.3, 124 to 127 and 127.2 to 127.4, and 10
(iii) in subsection (2.1), the tax for the taxation year otherwise payable under this Part before making any addition under subsection 120(1) or section 120.1 and any deduction under any of sections 120.1, 121, 122.3, 124 to 127 and 127.2 to 127.4; and” 15 20 25 30

(8) Subsections (1) to (7) are applicable to the 1985 and subsequent taxation years.

71. (1) Subsections 127(7) and (8) of the said Act are repealed and the following substituted therefor:

“(7) Where, in a particular taxation year of a taxpayer who is a beneficiary under a trust, an amount is determined in respect of the trust under paragraph (a), (b) or (e.1) of the definition “investment tax credit” in subsection (9) for its taxation year ending in that particular taxation year, the trust may, in its return of income under this Part for its taxation year ending in that particular taxation year, designate such portion of that amount as may, having regard to all the circumstances including the terms and conditions of the trust, reasonably be considered to be 40 45

(7) Les sous-alinéas 126(7)d)(i) à (iii) de la même loi sont abrogés et remplacés par ce qui suit :

«(i) à l'alinéa (1)b) et au paragraphe (3), l'excédent éventuel de l'impôt pour l'année d'imposition payable par ailleurs en vertu de la présente partie, avant tout ajout visé à l'article 120.1 et toute déduction visée à l'un des articles 120.1, 121, 122.3, 125 à 127 et 127.2 à 127.4, sur la somme éventuelle réputée, en application du paragraphe 120(2), avoir été payée au titre de l'impôt pour l'année en vertu de la présente partie, 5 10 15
(ii) au sous-alinéa (2)c)(i) et à l'alinéa (2.2)b), l'impôt pour l'année d'imposition payable par ailleurs en vertu de la présente partie, avant tout ajout visé à l'article 120.1 et toute déduction visée à l'un des articles 120.1, 121, 122.3, 124 à 127 et 127.2 à 127.4, et 20
(iii) au paragraphe (2.1), l'impôt pour l'année d'imposition payable par ailleurs en vertu de la présente partie, avant tout ajout visé au paragraphe 120(1) ou à l'article 120.1 et toute déduction visée à l'un des articles 120.1, 121, 122.3, 124 à 127 et 127.2 à 127.4;» 25 30

(8) Les paragraphes (1) à (7) s'appliquent aux années d'imposition 1985 et suivantes.

71. (1) Les paragraphes 127(7) et (8) de la même loi sont abrogés et remplacés par ce qui suit :

«(7) Lorsque, dans une année d'imposition donnée d'un contribuable bénéficiaire d'une fiducie, un montant est déterminé à l'égard de la fiducie en vertu de l'alinéa a), b) ou e.1) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9) pour l'année d'imposition de la fiducie se terminant dans l'année d'imposition donnée, la fiducie peut, dans sa déclaration de revenu en vertu de la présente partie pour son année d'imposition se terminant dans l'année d'imposition donnée, attribuer au contribuable la partie de ce montant qu'il est raisonnable de considérer 40 45 50

Crédit d'impôt à l'investissement d'une fiducie

attributable to the taxpayer and was not designated by the trust in respect of any other beneficiary of that trust, and that portion shall be added in computing the investment tax credit of the taxpayer at the end of that particular taxation year and shall be deducted in computing the investment tax credit of the trust at the end of its taxation year ending in that particular taxation year.

Investment tax
credit
partnership

(8) Where, in a particular taxation year of a taxpayer who is a member of a partnership, an amount would, if the partnership were a person and its fiscal period were its taxation year, be determined in respect of the partnership under paragraph (a), (b) or (e.1) of the definition "investment tax credit" in subsection (9) for its taxation year ending in that particular taxation year, the portion of that amount that may reasonably be considered to be the taxpayer's share thereof shall be added in computing the investment tax credit of the taxpayer at the end of that particular taxation year."

(2) The definition "designated region" in subsection 127(9) of the said Act is repealed.

(3) All that portion of the definition "certified property" in subsection 127(9) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

" "certified property" of a taxpayer means any property (other than an approved project property) described in paragraph (a) or (b) of the definition "qualified property" "

(4) Paragraph (a) of the definition "certified property" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(a) that was acquired by the taxpayer after October 28, 1980 and
(i) before 1987, or

comme se rapportant au contribuable, compte tenu de toutes les circonstances, y compris des conditions de la fiducie, et que la fiducie n'a attribuée à aucun autre de ses bénéficiaires; la partie de ce montant doit être, d'une part, ajoutée dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année d'imposition donnée et, d'autre part, déduite dans le calcul du crédit d'impôt à l'investissement de la fiducie à la fin de son année d'imposition se terminant dans l'année d'imposition donnée.

(8) Lorsque, dans une année d'imposition donnée d'un contribuable membre d'une société, un montant serait déterminé à l'égard de la société, si celle-ci était une personne et que son exercice financier correspondît à son année d'imposition, en vertu de l'alinéa a), b) ou e.1) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9) pour son année d'imposition se terminant dans l'année d'imposition donnée, la partie de ce montant qu'il est raisonnable de considérer comme la part du contribuable doit être ajoutée dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année d'imposition donnée.»

(2) La définition de «région désignée», au paragraphe 127(9) de la même loi, est abrogée.

(3) Le passage de la définition de «bien certifié», au paragraphe 127(9) de la même loi, qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«bien certifié» d'un contribuable s'entend d'un bien (à l'exclusion d'un bien d'un ouvrage approuvé) visé à l'alinéa a) ou b) de la définition de «bien admissible»

Crédit d'impôt
à l'investisse-
ment d'une
société

«bien certifié»
"certified
property"

(4) L'alinéa a) de la définition de «bien certifié», au paragraphe 127(9) de la même loi, est abrogé et remplacé par ce qui suit :

«a) qui a été acquis par le contribuable après le 28 octobre 1980 et
(i) soit avant 1987,

"certified
property"
«bien certifié»

45

(ii) before 1988 where the property is
(A) a building under construction
before 1987, or
(B) machinery and equipment
ordered in writing by the taxpayer
before 1987

and has not been used, or acquired for
use or lease, for any purpose whatever
before it was acquired by him, and”

(ii) soit avant 1988, si le bien est :
(A) un bâtiment en construction
avant 1987, ou
(B) une machine ou du matériel
que le contribuable a commandé
par écrit avant 1987,

et qui, avant cette acquisition, n’a été
utilisé à aucune fin ni acquis pour être
utilisé ou loué à quelque fin que ce soit,
et»

(5) Paragraph (a) of the definition
“investment tax credit” in subsection 127(9)
of the said Act is repealed and the following
substituted therefor:

“(a) the aggregate of all amounts each
of which is the specified percentage of
the capital cost to him of a qualified
property, qualified transportation equip-
ment, qualified construction equipment,
approved project property or certified
property acquired by him in the year or
the specified percentage of a qualified
expenditure made by him in the year,”

(5) L’alinéa a) de la définition de «crédit
d’impôt à l’investissement», au paragraphe
127(9) de la même loi, est abrogé et rem-
placé par ce qui suit :

«a) de l’ensemble des montants dont
chacun représente le pourcentage déter-
miné du coût en capital pour le contri-
buable d’un bien admissible, de matériel
de transport admissible, de matériel de
construction admissible, d’un bien d’un
ouvrage approuvé ou d’un bien certifié,
que le contribuable a acquis dans l’an-
née, ou le pourcentage déterminé d’une
dépense admissible qu’il a faite dans
l’année,»

(6) The definition “investment tax credit”
in subsection 127(9) of the said Act is fur-
ther amended by striking out the word “and”
at the end of paragraph (d) thereof, by
adding the word “and” at the end of para-
graph (e) thereof and by adding thereto,
immediately after paragraph (e) thereof, the
following paragraph:

“(e.1) the aggregate of all amounts
each of which is the specified percentage
of that portion of a repayment made by
the taxpayer in the year or in any of the
7 taxation years immediately preceding
or the 3 taxation years immediately fol-
lowing the year that may reasonably be
considered to be a repayment of govern-
ment assistance, non-government assist-
ance or a contract payment that reduced
the capital cost to the taxpayer of a
property under paragraph (11.1)(b) or
that reduced the amount of an expendi-
ture made by the taxpayer under para-
graph (11.1)(c)”

(6) La définition de «crédit d’impôt à l’in-
vestissement», au paragraphe 127(9) de la
même loi, est modifiée par insertion, après
l’alinéa e), de ce qui suit :

«e.1) de l’ensemble des montants dont
chacun représente le pourcentage déter-
miné de la partie d’un remboursement
fait par le contribuable dans l’année ou
dans une des 7 années d’imposition pré-
cédentes ou des 3 années d’imposition
subséquentes, qu’il est raisonnable de
considérer comme le remboursement
d’une aide gouvernementale, d’une aide
non gouvernementale ou d’un paiement
contractuel, qui a réduit le coût en capi-
tal pour le contribuable d’un bien en
vertu de l’alinéa (11.1)b) ou qui a réduit
le montant d’une dépense faite par le
contribuable en vertu de l’alinéa
(11.1)c),»

(7) The definition "investment tax credit" in subsection 127(9) of the said Act is further amended by striking out the word "and" at the end of paragraph (h) thereof and by adding thereto the following paragraphs:

"(j) where the taxpayer is a corporation control of which has been acquired by a person or persons at any time before the end of the year, the amount determined under subsection (9.1) in respect of the taxpayer, and

(k) where the taxpayer is a corporation control of which has been acquired by a person or persons at any time after the commencement of the year, the amount determined under subsection (9.2) in respect of the taxpayer;"

(8) All that portion of the definition "qualified property" in subsection 127(9) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"qualified property" of a taxpayer means property (other than an approved project property or a certified property) that is"

(9) Clause (a)(ii)(B) of the definition "specified percentage" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(B) a prescribed designated region, 7 1/2%, and"

(10) Clause (a)(iii)(B) of the definition "specified percentage" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(B) a prescribed designated region, 10%, and"

(11) Clause (e)(i)(B) of the definition "specified percentage" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(B) a prescribed designated region, 7 1/2%, and"

(12) The definition "specified percentage" in subsection 127(9) of the said Act is further amended by striking out the word "and"

(7) La définition de «crédit d'impôt à l'investissement», au paragraphe 127(9) de la même loi, est modifiée par suppression du mot «et» à la fin de l'alinéa h) et par adjonction de ce qui suit :

«j) du montant calculé selon le paragraphe (9.1) à l'égard du contribuable, lorsque celui-ci est une corporation dont le contrôle a été acquis par une ou plusieurs personnes à une date antérieure à la fin de l'année,

k) du montant calculé selon le paragraphe (9.2) à l'égard du contribuable, lorsque celui-ci est une corporation dont le contrôle a été acquis par une ou plusieurs personnes à une date postérieure au début de l'année;»

(8) Le passage de la définition de «bien admissible», au paragraphe 127(9) de la même loi, qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«bien admissible» d'un contribuable s'entend d'un bien (à l'exclusion d'un bien d'un ouvrage approuvé et d'un bien certifié) qui est»

(9) La division a)(ii)(B) de la définition de «pourcentage déterminé», au paragraphe 127(9) de la même loi, est abrogée et remplacée par ce qui suit :

«(B) dans une région désignée prescrite, 7 1/2 %,»

(10) La division a)(iii)(B) de la définition de «pourcentage déterminé», au paragraphe 127(9) de la même loi, est abrogée et remplacée par ce qui suit :

«(B) dans une région désignée prescrite, 10 %,»

(11) La division e)(i)(B) de la définition de «pourcentage déterminé», au paragraphe 127(9) de la même loi, est abrogée et remplacée par ce qui suit :

«(B) dans une région désignée prescrite, 7 1/2 %,»

(12) La définition de «pourcentage déterminé», au paragraphe 127(9) de la même loi, est modifiée par adjonction de ce qui suit :

"qualified property"
«bien admissible»

«bien admissible»
"qualified property"

at the end of paragraph (d) thereof and by adding thereto the following paragraphs:

“(f) in respect of the repayment of government assistance, non-government assistance or a contract payment that reduced the capital cost to the taxpayer of a property under paragraph (11.1)(b) or that reduced the amount of an expenditure made by the taxpayer under paragraph (11.1)(c), the specified percentage that was applicable in respect of the property or expenditure, as the case may be, and
(g) in respect of an approved project property, 60%.”

(13) Subsection 127(9) of the said Act is further amended by adding thereto, in alphabetical order within the subsection, the following definitions:

“approved project”
«ouvrage approuvé»

““approved project” means a project with a total capital cost of depreciable property, determined without reference to subsection 13(7.1) or (7.4), of not less than \$50,000 that has, upon application in writing before July 1988, been approved by the Minister of Regional Industrial Expansion;

“approved project property”
«bien d'un ouvrage approuvé»

“approved project property” of a taxpayer means property that is certified by the Minister of Regional Industrial Expansion to be property that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer, and that is

(a) a prescribed building, to the extent that it is acquired by the taxpayer after May 23, 1985 and before 1993, or

(b) prescribed machinery and equipment acquired by the taxpayer after May 23, 1985 and before 1993,

that has been acquired pursuant to a plan by the taxpayer to use the property in Cape Breton primarily for an approved purpose in an approved project or, in the case of a prescribed building, to be leased by him to a lessee (other than a person exempt from tax under this Part by virtue of section 149) who can reasonably be expected to use the

«f) dans le cas du remboursement d'une aide gouvernementale, d'une aide non gouvernementale ou d'un paiement contractuel, qui a réduit le coût en capital pour le contribuable d'un bien en vertu de l'alinéa (11.1)b) ou qui a réduit le montant d'une dépense faite par le contribuable en vertu de l'alinéa (11.1)c), le pourcentage déterminé qui était applicable au bien ou à la dépense, selon le cas;
g) dans le cas d'un bien d'un ouvrage approuvé, 60 %;»

(13) Le paragraphe 127(9) de la même loi est modifié par insertion, suivant l'ordre alphabétique, de ce qui suit :

«aide gouvernementale» s'entend d'une aide reçue d'un gouvernement, d'une municipalité ou d'un autre organisme public sous forme de prime, subvention, prêt à remboursement conditionnel, déduction de l'impôt ou allocation de placement ou sous toute autre forme, à l'exclusion d'une déduction en vertu du paragraphe (5) ou (6);

«aide gouvernementale»
“government assistance”

«aide non gouvernementale» s'entend d'un montant qui serait inclus dans le revenu à cause de l'alinéa 12(1)x) s'il n'était pas tenu compte des sous-alinéas 12(1)x)(vi) et (vii);

«aide non gouvernementale»
“non-government assistance”

«bien d'un ouvrage approuvé» s'entend d'un bien d'un contribuable pour lequel le ministre de l'Expansion industrielle régionale délivre un certificat attestant qu'il n'a été utilisé à aucune fin ni acquis pour être utilisé ou loué à quelque fin que ce soit avant son acquisition par le contribuable et qu'il s'agit :

«bien d'un ouvrage approuvé»
“approved project property”

a) soit d'un bâtiment prescrit, dans la mesure où le contribuable l'acquiert après le 23 mai 1985 et avant 1993,
b) soit d'une machine prescrite ou de matériel prescrit, que le contribuable acquiert après le 23 mai 1985 et avant 1993,

lequel bâtiment, laquelle machine ou lequel matériel est acquis conformément

building pursuant to a plan to use it in Cape Breton primarily for an approved purpose in an approved project, or

(c) part of a prescribed building to the extent that the part is acquired by the taxpayer after May 23, 1985 and before 1993 to be

(i) used by the taxpayer, or

(ii) leased by him to a lessee (other than a person exempt from tax under this Part by virtue of section 149) who can reasonably be expected to use that part

pursuant to a plan to use that part in Cape Breton primarily for an approved purpose in an approved project, or

(d) where the taxpayer is a leasing corporation, prescribed machinery and equipment acquired by him after May 23, 1985 and before 1993, to be leased by the taxpayer in the ordinary course of carrying on a business in Canada to a lessee (other than a person exempt from tax under this Part by virtue of section 149) who can reasonably be expected to use the property in Cape Breton primarily for an approved purpose in an approved project, but this paragraph only applies if the first lessee of the property commenced use of the property after May 23, 1985,

and for the purposes of this definition,

(e) "for an approved purpose" means for the purpose of

(i) any of the activities described in subparagraphs (c)(i) to (ix), (xi) and (xii) of the definition "qualified property",

(ii) farming, or

(iii) a prescribed activity, and

(f) "leasing corporation" means a corporation whose principal business is leasing property, manufacturing property that it sells or leases, the lending of money, the purchasing of conditional sales contracts, accounts receivable, bills of sale, chattel mortgages, bills of exchange or other obligations representing part or all of the

à un projet du contribuable d'utilisation principale du bien au Cap-Breton à une fin approuvée et dans le cadre d'un ouvrage approuvé ou lequel bâtiment est acquis par le contribuable pour le louer à un locataire à (l'exclusion d'une personne exonérée d'impôt en vertu de la présente partie à cause de l'article 149) dont on peut raisonnablement s'attendre à ce qu'il utilise le bâtiment, conformément à un projet d'utilisation principale de celui-ci au Cap-Breton à une fin approuvée et dans le cadre d'un ouvrage approuvé;

c) soit de la partie d'un bâtiment prescrit, dans la mesure où le contribuable l'acquiert après le 23 mai 1985 et avant 1993 :

(i) pour l'utiliser lui-même, ou

(ii) pour le louer à un locataire (à l'exclusion d'une personne exonérée d'impôt en vertu de la présente partie à cause de l'article 149) dont on peut raisonnablement s'attendre à ce qu'il utilise cette partie,

conformément à un projet d'utilisation principale de cette partie de bâtiment au Cap-Breton à une fin approuvée et dans le cadre d'un ouvrage approuvé;

d) soit d'une machine prescrite ou de matériel prescrit que le contribuable, s'il est une corporation de services, acquiert après le 23 mai 1985 et avant 1993 pour les louer dans le cours normal de l'exploitation d'une entreprise au Canada à un locataire (à l'exclusion d'une personne exonérée d'impôt en vertu de la présente partie à cause de l'article 149) dont on peut raisonnablement s'attendre à ce qu'il utilise principalement le bien au Cap-Breton à une fin approuvée et dans le cadre d'un ouvrage approuvé; toutefois, le présent alinéa ne s'applique que si le premier locataire du bien commence à l'utiliser après le 23 mai 1985;

pour l'application de la présente définition :

e) «fin approuvée» s'entend :

«Cape Breton»
«Cap-Breton»

sale price of merchandise or services,
or selling or servicing a type of prop-
erty that it also leases, or any combi-
nation thereof;

5 “Cape Breton” means Cape Breton Island
and that portion of the Province of Nova
Scotia within the following described
boundary:

10 beginning at a point on the southwest-
erly shore of Chedabucto Bay near
Red Head, said point being S70
degrees E (Nova Scotia grid meridi-
an) from Geodetic Station Sand,
thence in a southwesterly direction to
a point on the northwesterly boundary
15 of highway 344, said point being
southwesterly 240' from the intersec-
tion of King Brook with said highway
boundary, thence northwesterly to
Crown post 6678, thence continuing
20 northwesterly to Crown post 6679,
thence continuing northwesterly to
Crown post 6680, thence continuing
northwesterly to Crown post 6681,
thence continuing northwesterly to
25 Crown post 6632, thence continuing
northwesterly to Crown post 6602,
thence northerly to Crown post 8575;
thence northerly to Crown post 6599,
thence continuing northerly to Crown
30 post 6600, thence northwesterly to the
southwest angle of the Town of Mul-
grave, thence along the westerly
boundary of the Town of Mulgrave
and a prolongation thereof northerly
35 to the Antigonish-Guysborough
county line, thence along said county
line northeasterly to the southwesterly
shore of the Strait of Canso, thence
following the southwesterly shore of
40 the Strait of Canso and the north-
westerly shore of Chedabucto Bay
southeasterly to the place of begin-
ning;

45 “contract payment” means
(a) an amount payable by a person
resident in Canada for scientific
research and experimental develop-
ment related to the business of that
50 person,

“contract
payment”
«paiement
contractuel»

(i) d'une des activités visées aux
sous-alinéas c)(i) à (ix), (xi) et (xii)
de la définition de «bien admissi-
ble»,

(ii) d'une activité agricole, ou 5
(iii) d'une activité prescrite,

f) «corporation de services» s'entend
d'une corporation dont l'entreprise
principale consiste à louer des biens, à
fabriquer des biens qu'elle vend ou 10
qu'elle loue, à prêter de l'argent, à
acheter des contrats de vente condi-
tionnelle, des comptes à recevoir, des
factures, des hypothèques mobilières,
des lettres de change ou d'autres titres 15
qui représentent tout ou partie du prix
de vente de marchandises ou de servi-
ces, à vendre une sorte de biens
qu'elle loue également ou à en assurer
le service, ou à combiner plusieurs de 20
ces activités;

«Cap-Breton» s'entend de l'Île du Cap-Bre-
ton et de la partie de la province de la
Nouvelle-Écosse délimitée comme suit :

25 à partir du point situé sur la côte
sud-ouest de la baie Chedabucto près
de Red Head qui se trouve à S70° E
(ligne d'abscisse constante de la Nou-
velle-Écosse) de la station géodésique
Sand, 30
vers le sud-ouest, jusqu'au point, situé
sur la limite nord-ouest de la route
344, qui se trouve à 240' sud-ouest de
l'intersection de King Brook et de
cette limite; 35
de là, vers le nord-ouest, jusqu'au
repère de la Couronne 6678, puis jus-
qu'au repère de la Couronne 6679,
puis jusqu'au repère de la Couronne
6680, puis jusqu'au repère de la Cou-
ronne 6681, puis jusqu'au repère de la
40 Couronne 6632, puis jusqu'au repère
de la Couronne 6602;
de là, vers le nord, jusqu'au repère de
la Couronne 8575, puis jusqu'au 45
repère de la Couronne 6599, puis jus-
qu'au repère de la Couronne 6600;
de là, vers le nord-ouest, jusqu'à l'an-
gle des limites sud et ouest de la ville
de Mulgrave, puis le long de la limite 50

«Cap-Breton»
“Cape Breton”

(b) an amount, other than a prescribed amount, payable by a Canadian government, municipality or other Canadian public authority or by a person exempt from tax under Part I by virtue of section 149 for scientific research and experimental development to be performed for it or on its behalf, or

(c) an amount payable by a person not resident in Canada if he is entitled to a deduction under subparagraph 37(1)(a)(v) in respect of the amount;

“government assistance” means assistance from a government, municipality or other public authority whether as a grant, subsidy, forgivable loan, deduction from tax, investment allowance or as any other form of assistance other than as a deduction under subsection (5) or (6);

“non-government assistance” means an amount that would be included in income by virtue of paragraph 12(1)(x) if that paragraph were read without reference to subparagraphs (vi) and (vii) thereof;

ouest de cette ville, se prolongeant vers le nord jusqu'à la limite du comté d'Antigonish-Guysborough; de là, le long de cette limite de comté, vers le nord-est, jusqu'à la côte sud-ouest du détroit de Canso; de là, le long de la côte sud-ouest du détroit de Canso et de la côte nord-ouest de la baie Chedabucto, vers le sud-est, jusqu'au point de départ.

«ouvrage approuvé» s'entend d'un ouvrage dont les biens amortissables ont un coût en capital total, calculé sans tenir compte du paragraphe 13(7.1) ou (7.4), d'au moins 50 000 \$ et qui est approuvé par le ministre de l'Expansion industrielle régionale sur demande écrite faite avant juillet 1988;

«paiement contractuel» s'entend :

a) d'un montant payable par une personne qui réside au Canada pour des recherches scientifiques et du développement expérimental liés à l'entreprise de cette personne;

b) d'un montant payable — à l'exclusion d'un montant prescrit — par le gouvernement fédéral, un gouvernement provincial, une municipalité ou un autre organisme public canadien ou par une personne exonérée de l'impôt en vertu de la partie I à cause de l'article 149, pour des recherches scientifiques et du développement expérimental à faire pour cet organisme ou cette personne ou à leur profit;

c) d'un montant payable par une personne qui ne réside pas au Canada, si elle a droit à une déduction en vertu du sous-alinéa 37(1)(a)(v) à l'égard de ce montant;»

«ouvrage approuvé»
“approved project”

«paiement contractuel»
“contract payment”

(14) Subsections 127(9.1) and (9.2) of the said Act are repealed.

(14) Les paragraphes 127(9.1) et (9.2) de la même loi sont abrogés.

(15) Section 127 of the said Act is further amended by adding thereto, immediately after subsection (9) thereof, the following subsections:

(15) L'article 127 de la même loi est modifié par insertion, après le paragraphe (9), de ce qui suit :

“(9.1) Where a taxpayer is a corporation control of which has been acquired by a person or persons (each of whom is in

«(9.1) Lorsqu'un contribuable est une corporation dont le contrôle a été acquis par une ou plusieurs personnes — appelées

Contrôle acquis avant la fin de l'année

Where control acquired before end of year

this subsection referred to as the “purchaser”) at any time (in this subsection referred to as “that time”) before the end of a taxation year of the corporation, the amount determined for the purposes of paragraph (j) of the definition “investment tax credit” in subsection (9) is the amount, if any, by which

(a) the amount, if any, by which

(i) the aggregate of all amounts added in computing its investment tax credit at the end of the year in respect of a property acquired, or an expenditure made, before that time

exceeds

(ii) the aggregate of all amounts each of which is an amount

(A) deducted in computing its investment tax credit at the end of the year under paragraph (f) or (g) of the definition “investment tax credit” in subsection (9), or

(B) deducted in computing its investment tax credit at the end of the taxation year immediately preceding the year under paragraph (i) of the definition “investment tax credit” in subsection (9),

to the extent that such amount may reasonably be considered to have been so deducted in respect of a property or expenditure in respect of which an amount is included in subparagraph (i)

exceeds the aggregate of

(b) the proportion of its refundable investment tax credit for the year (within the meaning assigned by subsection 127.1(2)) that

(i) the aggregate of all amounts each of which is an amount included in computing its investment tax credit at the end of the year

(A) in respect of property acquired, or an expenditure made, by it in the year and after April 19, 1983 and before the earlier of that time and May 1, 1986, or

(B) pursuant to paragraph (b) of the definition “investment tax credit” in subsection (9) in respect of a

chacune «acheteur» au présent paragraphe — à une date quelconque — appelée «cette date» au présent paragraphe — avant la fin d'une année d'imposition de la corporation, le montant calculé pour l'application de l'alinéa j) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9) correspond à l'excédent éventuel

a) de l'excédent éventuel

(i) du total des montants ajoutés dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année à l'égard d'un bien acquis, ou d'une dépense faite, avant cette date

sur

(ii) le total des montants dont chacun représente un montant

(A) déduit dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année en vertu de l'alinéa f) ou g) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9), ou

(B) déduit dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année d'imposition précédant l'année visée à l'alinéa i) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9),

dans la mesure où il est raisonnable de considérer que ce montant a été ainsi déduit à l'égard d'un bien ou d'une dépense à l'égard desquels un montant est ajouté au sous-alinéa (i),

sur le total :

b) du produit obtenu en multipliant son crédit d'impôt à l'investissement remboursable pour l'année, au sens du paragraphe 127.1(2), par le rapport entre

(i) le total des montants dont chacun représente un montant inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année

(A) à l'égard d'un bien qu'elle a acquis, ou d'une dépense qu'elle a faite, dans l'année, après le 19 avril 1983 et avant la première de cette date ou du 1^{er} mai 1986, ou

(B) conformément à l'alinéa b) de la définition de «crédit d'impôt à l'investissement» au paragraphe

property acquired, or an expenditure made, after April 19, 1983 and before the earlier of that time and May 1, 1986

is of

5

(ii) the aggregate of all amounts each of which is an amount determined under subparagraph (a)(iv) or (vi) of the definition "refundable investment tax credit" in subsection 127.1(2) in 10 respect of the corporation for the year,

(c) the amount, if any, by which its refundable Part VII tax on hand at the end of the year exceeds the aggregate of 15 all amounts each of which is an amount designated under subsection 192(4) in respect of a share issued by it

(i) in the period commencing one month before that time and ending at 20 that time, or

(ii) after that time,

and before the end of the year, and

(d) that proportion of the amount that, but for subsections (3) and (5) and sections 126, 127.2 and 127.3, would be its tax payable under this Part for the year that,

(i) where that time is in a preceding taxation year and throughout the year 30 the corporation carried on a particular business in the course of the carrying on of which a property was acquired, or an expenditure was made, before that time in respect of 35 which an amount is included in computing its investment tax credit at the end of the year, the aggregate of all amounts each of which is

(A) its income for the year from 40 the particular business,

(B) its income for the year from any other business substantially all the income of which was derived from the sale, leasing, rental or de- 45 velopment of properties or the rendering of services similar to the properties sold, leased, rented or developed, or the services rendered, as the case may be, by the corpora- 50

(9), à l'égard d'un bien acquis, ou d'une dépense faite, après le 19 avril 1983 et avant la première de cette date ou du 1^{er} mai 1986,

et

5

(ii) le total des montants dont chacun représente un montant calculé selon le sous-alinéa a)(iv) ou (vi) de la définition de «crédit d'impôt à l'investissement remboursable» au paragraphe 10 127.1(2), à l'égard de la corporation pour l'année;

c) de l'excédent éventuel de son impôt de la partie VII remboursable en mains à la fin de l'année sur le total des mon- 15 tants dont chacun représente un montant désigné selon le paragraphe 192(4) au titre d'une action qu'elle a émise avant la fin de l'année et

(i) dans la période commençant un 20 mois avant cette date et se terminant à cette date, ou

(ii) après cette date; et

d) du produit obtenu en multipliant le montant qui, sans les paragraphes (3) et 25 (5) et les articles 126, 127.2 et 127.3, serait son impôt payable en vertu de la présente partie pour l'année, par le rapport entre le total visé au sous-alinéa (i) ou (ii), selon le cas, et l'excédent visé au 30 sous-alinéa (iii) :

(i) lorsque cette date tombe dans une année d'imposition antérieure, que tout au long de l'année la corporation a exploité une entreprise donnée dans 35 le cadre de laquelle elle a acquis un bien, ou fait une dépense, avant cette date à l'égard desquels un montant est inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de 40 l'année, le total des montants dont chacun représente :

(A) son revenu pour l'année tiré de l'entreprise donnée,

(B) son revenu pour l'année tiré de 45 toute autre entreprise dont la presque totalité du revenu est dérivé de la vente, de la location ou de l'aménagement de biens ou de la prestation de services semblables aux 50

tion in carrying on the particular business before that time, or
(C) the amount, if any, by which the aggregate of the corporation's taxable capital gains for the year 5
from the disposition of property owned by the corporation at that time, other than property that was acquired from the purchaser or a person who did not deal at arm's 10
length with the purchaser, exceeds the aggregate of the corporation's allowable capital losses for the year from the disposition of such property, or 15
(ii) where that time is in the year, the aggregate of all amounts each of which is
(A) the corporation's income for the year from a business carried on 20
by it before that time,
(B) its income for the year from any other business substantially all the income of which was derived from the sale, leasing, rental or de- 25
velopment of properties or the rendering of services similar to the properties sold, leased, rented or developed, or the services rendered, as the case may be, by the corpora- 30
tion in carrying on the business referred to in clause (A), or
(C) the amount, if any, by which the aggregate of the corporation's taxable capital gains for the year 35
from the disposition of property owned by the corporation before that time, other than property that was acquired from the purchaser or a person who did not deal at arm's 40
length with the purchaser, exceeds the aggregate of the corporation's allowable capital losses for the year from the disposition of such property 45
is of
(iii) the amount, if any, by which the corporation's income for the year exceeds the aggregate of all amounts each of which is an amount deductible 50

biens vendus, loués ou aménagés ou aux services rendus, selon le cas, par la corporation dans l'exploitation de l'entreprise donnée avant cette date, ou 5
(C) l'excédent éventuel du total des gains en capital imposables de la corporation pour l'année sur la disposition de biens lui appartenant à cette date, à l'exception des biens 10
acquis de l'acheteur ou d'une personne qui avait un lien de dépendance avec l'acheteur, sur le total des pertes en capital déductibles subies par la corporation pour l'an- 15
née à la disposition de tels biens,
(ii) lorsque cette date tombe dans l'année, le total des montants dont chacun représente :
(A) le revenu de la corporation 20
pour l'année tiré d'une entreprise qu'elle a exploitée avant cette date,
(B) son revenu pour l'année tiré de toute autre entreprise dont la presque totalité du revenu est dérivé de 25
la vente, de la location ou de l'aménagement de biens ou de la prestation de services semblables aux biens vendus, loués ou aménagés ou aux services rendus, selon le cas, 30
par la corporation dans l'exploitation de l'entreprise visée à la division (A), ou
(C) l'excédent éventuel du total des gains en capital imposables de la 35
corporation pour l'année sur la disposition de biens lui appartenant avant cette date, à l'exception des biens acquis de l'acheteur ou d'une personne qui avait un lien de dépen- 40
dance avec l'acheteur, sur le total des pertes en capital déductibles subies par la corporation pour l'année à la disposition de tels biens,
(iii) l'excédent éventuel du revenu de 45
la corporation pour l'année sur le total des montants dont chacun représente un montant qu'elle peut déduire pour l'année en vertu de l'article 112 ou 113. 50

Where control
acquired after
beginning of
year

by it for the year under section 112 or 113.

(9.2) Where a taxpayer is a corporation control of which has been acquired by a person or persons at any time (in this subsection referred to as "that time") after the commencement of a taxation year of the corporation, the amount determined for the purposes of paragraph (k) of the definition "investment tax credit" in subsection (9) is the amount, if any, by which

(a) the aggregate of all amounts each of which is an amount included in computing its investment tax credit at the end of the year in respect of a property acquired, or an expenditure made, after that time

exceeds the aggregate of

(b) that proportion of its refundable investment tax credit for the year (within the meaning assigned by subsection 127.1(2)) that

(i) the aggregate of all amounts each of which is an amount included in computing its investment tax credit at the end of the year

(A) in respect of property acquired, or an expenditure made, by it in the year and after that time and before May 1, 1986, or

(B) pursuant to paragraph (b) of the definition "investment tax credit" in subsection (9) in respect of a property acquired or an expenditure made after that time and before May 1, 1986

is of

(ii) the aggregate of all amounts each of which is an amount determined under subparagraph (a)(iv) or (vi) of the definition "refundable investment tax credit" in subsection 127.1(2) in respect of the corporation for the year,

(c) its refundable Part VII tax on hand at the end of the year, and

(d) that proportion of the amount that, but for subsections (3) and (5) and sections 126, 127.2 and 127.3, would be its

(9.2) Lorsqu'un contribuable est une corporation dont le contrôle a été acquis par une ou plusieurs personnes à une date quelconque — appelée «cette date» au présent paragraphe — après le début d'une année d'imposition de la corporation, le montant calculé pour l'application de l'alinéa k) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9) correspond à l'excédent éventuel

a) du total des montants dont chacun représente un montant inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année à l'égard d'un bien acquis, ou d'une dépense faite, après cette date

sur le total :

b) du produit obtenu en multipliant son crédit d'impôt à l'investissement remboursable pour l'année, au sens du paragraphe 127.1(2), par le rapport entre

(i) le total des montants dont chacun représente un montant inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année

(A) à l'égard d'un bien qu'elle a acquis, ou d'une dépense qu'il a faite, dans l'année, après cette date et avant le 1^{er} mai 1986, ou

(B) conformément à l'alinéa b) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9), à l'égard d'un bien acquis, ou d'une dépense faite, après cette date et avant le 1^{er} mai 1986

et

(ii) le total des montants dont chacun représente un montant calculé selon le sous-alinéa a)(iv) ou (vi) de la définition de «crédit d'impôt à l'investissement remboursable» au paragraphe 127.1(2), à l'égard de la corporation pour l'année;

c) de son impôt de la partie VII remboursable en mains à la fin de l'année; et

d) du produit obtenu en multipliant le montant qui, sans les paragraphes (3) et

Contrôle acquis
après le début
de l'année

tax payable under this Part for the year that,

(i) where that time is in the year, the aggregate of all amounts each of which is

(A) the corporation's income for the year from a business carried on by it after that time, or

(B) the amount, if any, by which the aggregate of the corporation's taxable capital gains for the year from the disposition of property after that time exceeds the aggregate of the corporation's allowable capital losses for the year from the disposition of property after that time, or

(ii) where that time is in a subsequent taxation year and the corporation acquired a property or made an expenditure, in the course of carrying on a particular business throughout the portion of a taxation year that is after that time, in respect of which an amount is included in computing its investment tax credit at the end of the year, the aggregate of

(A) its income for the year from the particular business, and

(B) where the corporation carried on the particular business in the year, its income for the year from any other business substantially all the income of which was derived from the sale, leasing, rental or development of properties or the rendering of services similar to the properties sold, leased, rented or developed, or the services rendered, as the case may be, by the corporation in carrying on the particular business before that time

is of

(iii) the amount, if any, by which the corporation's income for the year exceeds the aggregate of all amounts each of which is an amount deductible by it for the year under section 112 or 113."

(5) et les articles 126, 127.2 et 127.3, serait son impôt payable en vertu de la présente partie pour l'année, par le rapport entre le total visé au sous-alinéa (i) ou (ii), selon le cas, et l'excédent visé au sous-alinéa (iii) :

(i) lorsque cette date tombe dans l'année, le total des montants dont chacun représente

(A) le revenu de la corporation pour l'année tiré d'une entreprise qu'elle a exploitée après cette date, ou

(B) l'excédent éventuel du total des gains en capital imposables de la corporation pour l'année sur la disposition de biens après cette date, sur le total des pertes en capital déductibles subies par la corporation pour l'année à la disposition de biens après cette date,

(ii) lorsque cette date tombe dans une année d'imposition ultérieure, que la corporation a acquis un bien ou fait une dépense dans le cadre d'une entreprise donnée qu'elle a exploitée tout au long de la partie d'une année d'imposition qui tombe après cette date, bien ou dépense à l'égard desquels un montant est inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année, le total :

(A) de son revenu pour l'année tiré de l'entreprise donnée, et

(B) lorsque la corporation a exploité l'entreprise donnée dans l'année, de son revenu pour l'année tiré d'une autre entreprise dont la presque totalité du revenu est dérivé de la vente, de la location ou de l'aménagement de biens ou de la prestation de services semblables aux biens vendus, loués ou aménagés ou aux services rendus, selon le cas, par la corporation dans l'exploitation de l'entreprise donnée avant cette date,

(iii) l'excédent éventuel du revenu de la corporation pour l'année sur le total des montants dont chacun représente un montant qu'elle peut déduire pour

(16) Subsection 127(11.1) of the said Act is repealed and the following substituted therefor:

“(11.1) For the purposes of the definition “investment tax credit” in subsection (9),

(a) the capital cost to a taxpayer of a property shall be computed as if no amount were added thereto by virtue of section 21;

(b) the capital cost to a taxpayer of a property shall be deemed to be the capital cost to him of the property, determined without reference to subsections 13(7.1) and (7.4), less the amount of any government assistance or non-government assistance in respect of, or for the acquisition of, the property that, at the time of the filing of the return of income for the taxation year in which the property was acquired, the taxpayer has received, is entitled to receive or can reasonably be expected to receive;

(c) the amount of a qualified expenditure made by a taxpayer shall be deemed to be the amount of the qualified expenditure, determined without reference to subsections 13(7.1) and (7.4), less the amount of any government assistance, non-government assistance or contract payment in respect of the expenditure that, at the time of the filing of the return of income for the taxation year in which the expenditure was made, the taxpayer has received, is entitled to receive or can reasonably be expected to receive; and

(d) where at a particular time a taxpayer who is a beneficiary of a trust or a member of a partnership has received, is entitled to receive or can reasonably be expected to receive government assistance, non-government assistance or a contract payment, the amount thereof that may reasonably be considered to be in respect of, or for the acquisition of, depreciable property of the trust or partnership or in respect of an expenditure

l'année en vertu de l'article 112 ou 113.»

(16) Le paragraphe 127(11.1) de la même loi est abrogé et remplacé par ce qui suit :

«(11.1) Pour l'application de la définition de «crédit d'impôt à l'investissement» au paragraphe (9),

a) le coût en capital d'un bien pour un contribuable est calculé comme si aucun montant n'y était ajouté en vertu de l'article 21;

b) le coût en capital d'un bien pour un contribuable est réputé être le coût en capital du bien pour lui, calculé sans tenir compte des paragraphes 13(7.1) et (7.4), moins le montant de toute aide gouvernementale ou de toute aide non gouvernementale, relatif au bien ou destiné à l'acquisition du bien, que le contribuable a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir, à la date de production de la déclaration de revenu pour l'année d'imposition où le bien a été acquis;

c) le montant d'une dépense admissible faite par un contribuable est réputé être le montant de la dépense admissible, calculé sans tenir compte des paragraphes 13(7.1) et (7.4), moins le montant de toute aide gouvernementale, de toute aide non gouvernementale ou de tout paiement contractuel, relatif à la dépense, que le contribuable a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir, à la date de production de la déclaration de revenu pour l'année d'imposition où la dépense a été faite; et

d) lorsque, à une date donnée, un contribuable bénéficiaire d'une fiducie ou membre d'une société a reçu ou peut raisonnablement s'attendre à recevoir est en droit de recevoir une aide gouvernementale, une aide non gouvernementale ou un paiement contractuel, le montant de l'aide ou du paiement qu'il est raisonnable de considérer comme relatif à un bien amortissable de la fiducie ou de la société ou destiné à son acquisition

5 Définition de «crédit d'impôt à l'investissement»

Investment tax credit

Idem

by the trust or partnership shall be deemed to have been received at that time by the trust or partnership, as the case may be, as government assistance, non-government assistance or as a contract payment in respect of the property or the expenditure, as the case may be. 5

(11.2) For the purposes of the definition "investment tax credit" in subsection (9), where a taxpayer has acquired an approved project property in a taxation year, in computing his investment tax credit for a subsequent taxation year the reference to "7 taxation years immediately preceding" in that definition shall be read as "10 taxation years immediately preceding" in respect of that property. 15

Approved project property

(11.3) For the purpose of the definition "approved project property" in subsection (9), a property that has been certified by the Minister of Regional Industrial Expansion may have its certification revoked by that Minister where 20

(a) an incorrect statement was made in the furnishing of information for the purpose of obtaining the certificate, or 25

(b) the taxpayer does not conform to the plan described in that definition,

and a certificate that has been so revoked shall be void from the time of its issue." 30

(17) All that portion of subsection 127(16) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"Employment tax credit" defined

"(16) For the purposes of subsections (13) to (15) and subsections 87(2) and 88(1), "employment tax credit" of a taxpayer at the end of a taxation year means the amount, if any, by which the aggregate of" 40

(18) Subsections (1) and (6), the definitions "government assistance" and "non-government assistance" in subsection 127(9) of the said Act, as enacted by subsection (13), paragraph (f) of the definition "specified percentage" in subsection 127(9) of the said Act, as enacted by subsection (12) and sub-

ou comme relatif à une dépense de la fiducie ou de la société est réputé reçu à cette date par la fiducie ou la société, selon le cas, à titre d'aide gouvernementale, d'aide non gouvernementale ou de paiement contractuel à l'égard du bien ou de la dépense, selon le cas. 5

(11.2) Pour l'application de la définition de «crédit d'impôt à l'investissement» au paragraphe (9), lorsqu'un contribuable a acquis un bien d'un ouvrage approuvé dans une année d'imposition, la mention «7 années d'imposition précédentes» à cette définition est remplacée à l'égard du bien par la mention «10 années d'imposition précédentes» dans le calcul de son crédit d'impôt à l'investissement pour une année d'imposition subséquente. 15

Idem

(11.3) Pour l'application de la définition de «bien d'un ouvrage approuvé» au paragraphe (9), le ministre de l'Expansion industrielle régionale peut révoquer tout certificat qu'il a délivré concernant un bien : 20

Révocation du certificat

a) lorsqu'une déclaration inexacte a été faite en fournissant les renseignements nécessaires à l'obtention du certificat; ou 25
b) lorsque le contribuable ne se conforme pas au projet mentionné à cette définition. 30

Un certificat ainsi révoqué est nul rétroactivement à la date où il a été délivré.»

(17) Le passage du paragraphe 127(16) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit : 35

«(16) Pour l'application des paragraphes (13) à (15), 87(2) et 88(1), «crédit d'impôt à l'emploi» d'un contribuable à la fin d'une année d'imposition s'entend de la fraction éventuelle du total» 40

Définition de «crédit d'impôt à l'emploi»

(18) Les articles (1) et (6), ainsi que les définitions d'«aide gouvernementale» et d'«aide non gouvernementale» au paragraphe 127(9) de la même loi, édictées par le paragraphe (13), l'alinéa f) de la définition de «pourcentage déterminé» au paragraphe 127(9) de la même loi, édicté par le para-

section 127(11.1) of the said Act, as enacted by subsection (16) are applicable with respect to property acquired and expenditures made after May 23, 1985, other than property acquired and expenditures made after that date under the terms of an agreement in writing entered into on or before that date.

(19) Subsections (2), (9), (10) and (11) are applicable in respect of property acquired in the 1985 and subsequent taxation years.

(20) Subsections (3), (5) and (8), the definitions "approved project", "approved project property" and "Cape Breton" in subsection 127(9) of the said Act, as enacted by subsection (13), paragraph (g) of the definition "specified percentage" in subsection 127(9) of the said Act, as enacted by subsection (12) and subsections 127(11.2) and (11.3) of the said Act, as enacted by subsection (16) are applicable after May 23, 1985 except that, in its application to property acquired and expenditures made after May 23, 1985 under the terms of an agreement in writing entered into on or before that date, paragraph (a) of the definition "investment tax credit" in subsection 127(9) of the said act, as enacted by subsection (5), shall be read as follows:

"(a) the aggregate of all amounts each of which is the specified percentage of the capital cost to him, determined without reference to subsection 13(7.1), of a qualified property, qualified transportation equipment, qualified construction equipment, approved project property or certified property acquired by him in the year or the specified percentage of a qualified expenditure made by him in the year, determined without reference to subsection 13(7.1),"

(21) The definition "contract payment" in subsection 127(9) of the said Act, as enacted by subsection (13), is applicable with respect to expenditures made after November 21, 1985, other than expenditures made after that date under the terms of an agreement in writing entered into on or before that date.

phe (12), et le paragraphe 127(11.1) de la même loi, édicté par le paragraphe (16), s'appliquent aux biens acquis et aux dépenses faites après le 23 mai 1985, à l'exclusion des biens acquis et des dépenses faites après cette date conformément à un accord écrit conclu à cette date ou avant.

(19) Les paragraphes (2), (9), (10) et (11) s'appliquent aux biens acquis dans les années d'imposition 1985 et suivantes.

(20) Les paragraphes (3), (5) et (8), les définitions d'«ouvrage approuvé», de «bien d'un ouvrage approuvé» et de «Cap-Breton» au paragraphe 127(9) de la même loi, édictées par le paragraphe (13), l'alinéa g) de la définition de «pourcentage déterminé» au paragraphe 127(9) de la même loi, édicté par le paragraphe (12), et les paragraphes 127(11.2) et (11.3) de la même loi, édictés par le paragraphe (16), s'appliquent après le 23 mai 1985; toutefois, pour l'application de l'alinéa a) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9) de la même loi, édicté par le paragraphe (5), aux biens acquis et aux dépenses faites après le 23 mai 1985 conformément à un accord écrit conclu à cette date ou avant, cet alinéa est remplacé par ce qui suit :

«a) de l'ensemble des montants dont chacun représente le pourcentage déterminé du coût en capital pour le contribuable, établi sans tenir compte du paragraphe 13(7.1), d'un bien admissible, de matériel de transport admissible, de matériel de construction admissible, d'un bien d'un ouvrage approuvé ou d'un bien certifié que le contribuable a acquis dans l'année, ou au pourcentage déterminé d'une dépense admissible qu'il a faite dans l'année, établie sans tenir compte du paragraphe 13(7.1),»

(21) La définition de «paiement contractuel» au paragraphe 127(9) de la même loi, édictée par le paragraphe (13), s'applique aux dépenses faites après le 21 novembre 1985, à l'exclusion des dépenses faites après cette date conformément à un accord écrit conclu à cette date ou avant.

(22) Subsection (4) is applicable after 1985.

(23) Subsections (7) and (15) are applicable with respect to acquisitions of control occurring after May 23, 1985, other than acquisitions of control made under the terms of an agreement in writing entered into before May 24, 1985.

(24) Subsection (14) is applicable to amalgamations occurring after May 23, 1985 and windings-up commencing after May 23, 1985.

(25) Subsection (17) is applicable with respect to windings-up commencing after May 23, 1985.

72. (1) Subsection 127.1(2) of the said Act is repealed and the following substituted therefor:

Definitions

“excluded corporation”
«corporation exclue»

“(2) In this section,
“excluded corporation” for a taxation year 20 means a corporation that is, at any time in the year,

(a) controlled directly or indirectly, in any manner whatever, by

(i) one or more persons exempt 25 from tax under this Part by virtue of section 149,

(ii) Her Majesty in right of a province, a Canadian municipality or any other public authority, or 30

(iii) any combination of persons each of which is a person referred to in subparagraph (i) or (ii), or

(b) related to any person referred to in paragraph (a); 35

“qualifying corporation”
«corporation admissible»

“qualifying corporation” for a particular taxation year means a corporation that is, throughout the particular year, a Canadian-controlled private corporation whose taxable income for the immedi- 40 ately preceding taxation year together with the taxable incomes of all corporations with which it was associated in the particular year for their taxation years ending in the calendar year immediately 45 preceding the calendar year in which the particular year of the corporation ended does not exceed the aggregate of the business limits (as determined under

(22) Le paragraphe (4) s'applique après 1985.

(23) Les paragraphes (7) et (15) s'appliquent aux acquisitions de contrôle qui ont lieu après le 23 mai 1985, à l'exception de 5 celles qui sont effectuées conformément à un accord écrit conclu avant le 24 mai 1985.

(24) Le paragraphe (14) s'applique aux fusions qui ont lieu après le 23 mai 1985 et aux liquidations qui commencent après le 23 10 mai 1985.

(25) Le paragraphe (17) s'applique aux liquidations qui commencent après le 23 mai 15 1985.

72. (1) Le paragraphe 127.1(2) de la 15 même loi est abrogé et remplacé par ce qui suit :

Définitions

«(2) Les définitions qui suivent s'appliquent au présent article.

«corporation admissible» Corporation qui 20 est, tout au long d'une année d'imposition donnée, une corporation privée dont le contrôle est canadien et dont le revenu imposable pour l'année d'imposition précédente, ajouté au revenu imposable de toutes les corporations avec lesquelles elle a été associée dans l'année donnée, pour leurs années d'imposition se terminant au cours de l'année civile précédant l'année civile où l'année 30 donnée de la corporation s'est terminée, ne dépasse pas le total du plafond des affaires (calculé selon l'article 125) de la corporation et de celui des corporations associées pour ces années précédentes. Cette corporation n'est admissible que pour l'année d'imposition où les conditions ci-dessus sont réunies.

«corporation exclue» Corporation qui est, à une date quelconque d'une année d'im- 40 position,

a) soit contrôlée directement ou indirectement, de quelque manière que ce soit,

(i) par une ou plusieurs personnes 45 exonérées de l'impôt en vertu de la présente partie à cause de l'article 149,

«corporation exclue»
“excluded corporation”

"refundable
investment tax
credit"
«crédit...»

section 125) of the corporation and the associated corporations for those preceding years;

"refundable investment tax credit" for a taxation year means,

(a) in the case of a taxpayer that is

(i) a qualifying corporation for the year,

(ii) an individual other than a trust, or

(iii) a trust each beneficiary of which is a person referred to in subparagraph (i) or (ii),

an amount equal to 40% of the amount, if any, by which

(iv) the aggregate of all amounts each of which is an amount included in computing his investment tax credit at the end of the year

(A) in respect of property acquired, or an expenditure made (other than an expenditure in respect of which an amount is included under subparagraph (vi) in computing his refundable investment tax credit for the year), by him in the year and after April 19, 1983 and before May 1986, or

(B) pursuant to paragraph (b) of 30 the definition "investment tax credit" in subsection 127(9) in respect of a property acquired, or an expenditure made, after April 19, 1983 and before May 1986

exceeds

(v) the aggregate of

(A) such portion of the aggregate of all amounts each of which is an amount deducted by him under subsection 127(5) for the year or a preceding taxation year (other than an amount deemed by subsection (3) to be so deducted for the year) as may reasonably be considered to be in respect of the aggregate determined under subparagraph (iv), and

(B) such portion of the aggregate of all amounts each of which is

(ii) par Sa Majesté du chef d'une province, par une municipalité canadienne ou par un autre organisme public, ou

(iii) par des personnes visées aux sous-alinéas (i) et (ii);

b) soit liée à une personne visée à l'alinéa a).

«crédit d'impôt à l'investissement remboursable» Crédit calculé comme suit pour une année d'imposition :

a) si le contribuable est :

(i) une corporation admissible pour l'année,

(ii) un particulier, à l'exclusion d'une fiducie, ou

(iii) une fiducie dont chaque bénéficiaire est une personne visée au sous-alinéa (i) ou (ii),

le montant correspondant à 40 % de l'excédent éventuel

(iv) du total des montants dont chacun représente un montant inclus dans le calcul du crédit d'impôt à l'investissement de ce contribuable à la fin de l'année

(A) au titre d'un bien qu'il acquiert, ou d'une dépense qu'il fait (à l'exclusion d'une dépense à l'égard de laquelle un montant est inclus en vertu du sous-alinéa (vi) dans le calcul du crédit d'impôt à l'investissement remboursable du contribuable pour l'année), dans l'année, après le 19 avril 1983 et avant le mois de mai 1986, ou

(B) au titre d'un bien acquis, ou d'une dépense faite, après le 19 avril 1983 et avant le mois de mai 1986, conformément à l'alinéa b) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9),

sur

(v) le total :

(A) de la partie du total des montants dont chacun représente un montant que le contribuable a déduit en vertu du paragraphe 127(5) pour l'année ou pour une

«crédit d'impôt
à l'investisse-
ment rembour-
sable»
"refundable
investment tax
credit"

an amount required by subsection 127(6) or (7) to be deducted in computing its investment tax credit at the end of the year as may reasonably be considered to be in respect of the aggregate determined under subparagraph (iv), 5

plus, in the case of a qualifying corporation for the year, other than an excluded corporation for the year, the amount, if any, by which

(vi) the aggregate of

(A) the aggregate of all amounts each of which is an amount required by subsection 127(10.1) to be added in computing its investment tax credit at the end of the year in respect of an expenditure, other than an expenditure of a capital nature, made by it after May 23, 1985 and in the year, and 10 20

(B) the aggregate of all amounts each of which is an amount determined under paragraph (a) of the definition "investment tax credit" in subsection 127(9) in respect of an expenditure for which an amount is included in clause (A) 25 30

exceeds

(vii) the aggregate of

(A) such portion of the aggregate of all amounts each of which is an amount deducted by it under subsection 127(5) for the year or a preceding taxation year (other than an amount deemed by subsection (3) to be so deducted for the year) as may reasonably be considered to be in respect of the aggregate determined under subparagraph (vi), and 40

(B) such portion of the aggregate of all amounts each of which is an amount required by subsection 127(6) to be deducted in computing its investment tax credit at the end of the year as may reasonably be considered to be in respect of the aggregate 50

année d'imposition antérieure (à l'exclusion d'un montant réputé selon le paragraphe (3) déduit ainsi pour l'année), partie qu'il est raisonnable de considérer comme se rapportant au total calculé selon le sous-alinéa (iv), et 5

(B) de la partie du total des montants dont chacun représente un montant à déduire selon le paragraphe 127(6) ou (7) dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année, partie qu'il est raisonnable de considérer comme se rapportant au total calculé selon le sous-alinéa (iv); 15

s'y ajoute, si le contribuable est une corporation admissible pour l'année, qui n'est pas une corporation exclue pour l'année, l'excédent éventuel 20

(vi) du total :

(A) de l'ensemble des montants dont chacun représente un montant à ajouter selon le paragraphe 127(10.1) dans le calcul du crédit d'impôt à l'investissement de cette corporation à la fin de l'année au titre d'une dépense, à l'exclusion d'une dépense de capital, que celle-ci fait dans l'année, après le 23 mai 1985, et 25 30
(B) de l'ensemble des montants dont chacun représente un montant calculé selon l'alinéa a) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9), au titre d'une dépense pour laquelle un montant est inclus à la division (A), 35 40

sur

(vii) le total :

(A) de la partie de l'ensemble des montants dont chacun représente un montant que la corporation a déduit selon le paragraphe 127(5) pour l'année ou pour une année d'imposition antérieure (à l'exclusion d'un montant réputé ainsi pour l'année), partie qu'il 45 50

determined under subparagraph (vi), and

(b) in the case of any other taxpayer, 20% of the amount, if any, calculated for the year in respect of that other taxpayer, by which the aggregate determined under subparagraph (a)(iv) exceeds the aggregate determined under subparagraph (a)(v).”

est raisonnable de considérer comme se rapportant au total calculé selon le sous-alinéa (vi), (B) de la partie du total des montants à déduire selon le paragraphe 127(6) dans le calcul du crédit d'impôt à l'investissement de la corporation à la fin de l'année, partie qu'il est raisonnable de considérer comme se rapportant au total calculé selon le sous-alinéa (vi);

b) s'il s'agit d'un autre contribuable, 20 % de l'excédent éventuel, calculé pour l'année à son égard, du total calculé selon le sous-alinéa a)(iv) sur le total calculé selon le sous-alinéa a)(v).»

(2) Subsection (1) is applicable with respect to property acquired and expenditures made after May 23, 1985.

(2) Le paragraphe (1) s'applique aux biens acquis et aux dépenses faites après le 23 mai 1985.

73. (1) The said Act is further amended by adding thereto, immediately after section 127.3 thereof, the following section:

73. (1) La même loi est modifiée par insertion, après l'article 127.3, de ce qui suit :

Definitions

“approved share”
«action approuvée»

“labour-sponsored funds tax credit”
«crédit...»

“net cost”
«coût net»

“127.4 (1) In this section,

“approved share” means a share of the capital stock of a prescribed labour-sponsored venture capital corporation acquired by an individual where he is the first person, other than a broker or dealer in securities, to be a registered holder thereof;

“labour-sponsored funds tax credit” of an individual for a taxation year means the amount computed under subsection (3) in respect of the individual for that year;

“net cost” to an individual of an approved share means the amount by which (a) the amount of the consideration for which the share was issued to the individual

exceeds

(b) the amount of any assistance (other than an amount included in computing a tax credit of the individual in respect of that share) provided or to be provided by a government, municipality or any public

“127.4 (1) Les définitions qui suivent s'appliquent au présent article.

«action approuvée» Action du capital-actions d'une corporation à capital de risque prescrite de travailleurs acquise par un particulier qui en est le premier détenteur enregistré, à l'exception d'un courtier en valeurs.

«coût net» Coût, pour un particulier, d'une action approuvée correspondant à l'excédent éventuel

a) du montant reçu en contrepartie de l'émission de l'action au particulier sur

b) le montant d'une aide (à l'exclusion d'un montant inclus dans le calcul d'un crédit d'impôt du particulier pour cette action) fournie ou à fournir par un gouvernement, une municipalité ou un organisme public au titre de l'action ou en vue de son acquisition.

«crédit d'impôt relatif à un fonds de travailleurs» Montant calculé selon le para-

Définitions

«action approuvée»
“approved share”

«coût net»
“net cost”

«crédit d'impôt relatif à un fonds de travailleurs»
“labour-sponsored funds tax credit”

	authority in respect of, or for the acquisition of, the share;	graphe (3) à l'égard d'un particulier pour une année d'imposition.	
"tax otherwise payable" «impôt...»	"tax otherwise payable" by an individual means the amount that would, but for this section and section 120.1, be the tax payable under this Part by the individual.	«impôt payable par ailleurs» Montant qui serait, sans le présent article et l'article 120.1, l'impôt payable en vertu de la présente partie par un particulier.	«impôt payable par ailleurs» "tax otherwise payable"
Deduction of labour-sponsored funds tax credit	(2) There may be deducted from the tax otherwise payable by an individual (other than a trust) for a taxation year the lesser of \$700 and his labour-sponsored funds tax credit for the year.	(2) Est déductible de l'impôt payable par ailleurs par un particulier — à l'exclusion d'une fiducie — pour une année d'imposition le moindre de 700 \$ ou de son crédit d'impôt relatif à un fonds de travailleurs pour l'année.	Crédit d'impôt relatif à un fonds de travailleurs
Computation of tax credit	(3) The labour-sponsored funds tax credit of an individual for a taxation year is the aggregate of all amounts in respect of an approved share acquired by him in the year each of which is the amount, if any, by which (a) 40% of the net cost to him of the share exceeds (b) any tax credit provided under the law of a province in respect of the acquisition of the share by the individual.	(3) Le crédit d'impôt relatif à un fonds de travailleurs d'un particulier pour une année d'imposition correspond au total des montants relatifs à une action approuvée que le particulier acquiert dans l'année, dont chacun représente l'excédent éventuel a) du montant correspondant à 40 % du coût net de l'action pour le particulier sur b) tout crédit d'impôt prévu par la législation d'une province relativement à l'acquisition de l'action par le particulier.	Calcul du crédit
Idem	(4) Notwithstanding subsection (3), where the tax credit referred to in paragraph (3)(b) is less than 20% of the consideration for which the share was issued, the amount determined under that subsection in respect of the share shall be deemed to be nil.	(4) Par dérogation au paragraphe (3), le montant relatif à l'action, calculé selon ce paragraphe, est réputé nul lorsque le crédit d'impôt visé à l'alinéa (3)b) représente moins de 20 % du montant reçu en contrepartie de l'émission de l'action.	Idem
	(2) Subsection (1) is applicable to shares acquired after May 23, 1985.	(2) Le paragraphe (1) s'applique aux actions acquises après le 23 mai 1985.	
	74. (1) Paragraphs 128(2)(d.1) and (d.2) of the said Act are repealed.	74. (1) Les alinéas 128(2)d.1) et d.2) de la même loi sont abrogés.	
	(2) Subsection 128(2) of the said Act is further amended by striking out the word "and" at the end of paragraph (g) thereof, by adding the word "and" at the end of paragraph (h) thereof and by adding thereto the following paragraph:	(2) Le paragraphe 128(2) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa g) et par adjonction de ce qui suit :	
	"(i) the portion of the individual's non-capital loss for a particular taxation year in which paragraph (e) applied in respect of the individual	«(i) la perte autre qu'une perte en capital que le particulier subit pour une année d'imposition donnée au cours de laquelle l'alinéa e) s'applique	

and any preceding taxation year that does not exceed the lesser of

(A) the amount of his allowable business investment losses for the particular taxation year, and 5

(B) any portion of his non-capital loss for that particular year that was not deducted in computing his taxable income for any taxation year in which paragraph (e) applied 10 in respect of the individual or any preceding taxation year,

shall, for the purpose of determining his cumulative gains limit under section 110.6 for taxation years following 15 the taxation year in which paragraph (e) was last applicable in respect of the individual, be deemed not to have been an allowable business investment loss." 20

à lui et pour une année d'imposition antérieure est réputée ne pas être une perte déductible au titre d'un placement d'entreprise, pour la partie de cette perte qui ne dépasse pas le moindre des montants visés aux divisions (A) et (B), aux fins du calcul selon l'article 110.6 du plafond des gains cumulatifs du particulier pour les années d'imposition qui suivent celle 10 où l'alinéa e) s'applique pour la dernière fois au particulier :

(A) le montant des pertes déductibles au titre d'un placement d'entreprise qu'il subit pour l'année 15 d'imposition donnée,

(B) toute partie de la perte autre qu'une perte en capital qu'il subit pour cette année donnée et qui n'est pas déduite dans le calcul de son 20 revenu imposable pour une année d'imposition au cours de laquelle l'alinéa e) s'applique au particulier ou pour une année d'imposition antérieure.» 25

(3) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(3) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

(4) Subsection (2) is applicable to the 1985 and subsequent taxation years,

(4) Le paragraphe (2) s'applique aux années d'imposition 1985 et suivantes.

75. (1) Paragraph 130.1(4)(b) of the said 25 Act is repealed and the following substituted therefor:

75. (1) L'alinéa 130.1(4)(b) de la même loi 30 est abrogé et remplacé par ce qui suit :

"(b) notwithstanding any other provision of this Act, any amount received by a taxpayer in a taxation year as or on 30 account of the dividend shall not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be deemed to be a capital gain of 35 the taxpayer for the year from the disposition by him in the year of capital property."

«b) nonobstant les autres dispositions de la présente loi, tout montant qu'un contribuable reçoit dans une année d'imposition au titre du dividende n'est pas 35 inclus dans le calcul de son revenu pour l'année comme revenu tiré d'une action du capital-actions de la corporation, mais est réputé être un gain en capital du contribuable pour l'année sur la dis- 40 position par celui-ci dans l'année d'un bien en immobilisation.»

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

(2) Le paragraphe (1) s'applique aux 40 années d'imposition 1985 et suivantes.

76. (1) Paragraph 131(1)(b) of the said Act is repealed and the following substituted therefor:

76. (1) L'alinéa 131(1)(b) de la même loi 45 est abrogé et remplacé par ce qui suit :

“(b) notwithstanding any other provision of this Act, any amount received by a taxpayer in a taxation year as, on account or in lieu of payment of, or in satisfaction of the dividend shall not be included in computing his income for the year as income from a share of the capital stock of the corporation, but shall be deemed to be a capital gain of the taxpayer for the year from the disposition by him in the year of capital property.”

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years, except that in respect of the 1985 taxation year the reference in paragraph 131(1)(b) of the said Act, as enacted by subsection (1), to “notwithstanding any other provision of this Act” shall be read as a reference to “notwithstanding any other provision of this Act other than subsection 47.1(18)”.

77. (1) Subsection 136(1) of the said Act is repealed and the following substituted therefor:

“136. (1) Notwithstanding any other provision of this Act, a cooperative corporation that would, but for this section, be a private corporation shall be deemed not to be a private corporation except for the purposes of section 15.1, 123.1, 125, 127, 127.1 and 157.”

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

78. (1) Subsection 137(7) of the said Act is repealed and the following substituted therefor:

“(7) Notwithstanding any other provision of this Act, a credit union that would, but for this section, be a private corporation shall be deemed not to be a private corporation except for the purposes of sections 123.1, 125, 127, 127.1 and 157.”

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

79. (1) Section 138 of the said Act is amended by adding thereto, immediately after subsection (4.2) thereof, the following subsection:

«(b) nonobstant les autres dispositions de la présente loi, tout montant qu'un contribuable reçoit dans une année d'imposition au titre ou en paiement intégral ou partiel du dividende n'est pas inclus dans le calcul de son revenu pour l'année comme revenu tiré d'une action du capital-actions de la corporation, mais est réputé être un gain en capital du contribuable pour l'année sur la disposition par celui-ci dans l'année d'un bien en immobilisation.»

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes; toutefois, pour l'année d'imposition 1985, la mention «nonobstant les autres dispositions de la présente loi» à l'alinéa 131(1)b) de la même loi, édicté par le paragraphe (1), est remplacée par la mention «nonobstant les autres dispositions de la présente loi, à l'exception du paragraphe 47.1(18)».

77. (1) Le paragraphe 136(1) de la même loi est abrogé et remplacé par ce qui suit :

«136. (1) Nonobstant les autres dispositions de la présente loi, une corporation coopérative qui serait, si ce n'était le présent article, une corporation privée est réputée ne pas en être une, sauf pour l'application des articles 15.1, 123.1, 125, 127, 127.1 et 157.»

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

78. (1) Le paragraphe 137(7) de la même loi est abrogé et remplacé par ce qui suit :

«(7) Nonobstant les autres dispositions de la présente loi, une caisse de crédit qui serait, si ce n'était le présent article, une corporation privée est réputée ne pas en être une, sauf pour l'application des articles 123.1, 125, 127, 127.1 et 157.»

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

79. (1) L'article 138 de la même loi est modifié par insertion, après le paragraphe (4.2), de ce qui suit :

Coop. not priv.
corp.

Corporation
coopérative
réputée ne pas
être une
corporation
privée

Credit union
not priv. corp.

Caisse de crédit
réputée ne pas
être une
corporation
privée

Idem

“(4.3) For the purposes of paragraph (4)(a), in computing a life insurer's income from carrying on its life insurance business in Canada for its first taxation year ending after 1984, the amount, if any, by which

(a) the aggregate of all amounts each of which is an amount deducted by the insurer in computing its income for a taxation year ending after 1968 and before 1985 in respect of a claim under a life insurance policy that was likely to arise after the end of the particular taxation year in respect of a death that occurred in the particular taxation year exceeds

(b) the aggregate of all amounts each of which is an amount paid by the insurer or included in computing its income before the commencement of its first taxation year ending after 1984 in respect of amounts described in paragraph (a)

shall be deemed to be an amount that was deducted by the insurer under subparagraph (3)(a)(i) in computing its income from that business for its last taxation year ending before 1985.”

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

80. (1) All that portion of paragraph 138.1(1)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

“(a) an *inter vivos* trust (in this section referred to as the “related segregated fund trust”) is deemed to be created at the time that is the later of”

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

81. (1) Paragraph 146(3)(b) of the said Act is amended by adding thereto, immediately after subparagraph (iii) thereof, the following subparagraph:

Idem

«(4.3) Pour l'application de l'alinéa (4)a), dans le calcul du revenu qu'un assureur sur la vie tire de l'exploitation de son entreprise d'assurance-vie au Canada pour sa première année d'imposition se terminant après 1984, est réputé être un montant qui a été déduit par l'assureur sur la vie en vertu du sous-alinéa (3)a)(i) dans le calcul du revenu qu'il tire de cette entreprise pour sa dernière année d'imposition se terminant avant 1985 l'excédent éventuel

a) du total des montants dont chacun représente un montant déduit par l'assureur sur la vie, dans le calcul de son revenu pour une année d'imposition se terminant après 1968 et avant 1985, à l'égard d'une demande de règlement en vertu d'une police d'assurance-vie qui devait vraisemblablement arriver à la fin de l'année d'imposition donnée en raison d'un décès survenu au cours de l'année d'imposition donnée

sur

b) le total des montants dont chacun représente un montant payé par l'assureur sur la vie ou inclus dans le calcul de son revenu avant le début de sa première année d'imposition se terminant après 1984 au titre des montants visés à l'alinéa a).»

(2) Le paragraphe (1) s'applique aux 30 années d'imposition 1985 et suivantes.

80. (1) Le passage de l'alinéa 138.1(1)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«a) une fiducie non testamentaire — appelée «fiducie créée à l'égard du fonds réservé» au présent article — est réputée créée au dernier en date des jours suivants :»

(2) Le paragraphe (1) s'applique aux 40 années d'imposition 1986 et suivantes.

81. (1) L'alinéa 146(3)b) de la même loi est modifié par insertion, après le sous-alinéa (iii), de ce qui suit :

“(iii.1) to any person by way of an annuity under a contract that provides for the increase or reduction of the annuity in accordance only with a change in the interest rate on which the annuity is based, if the interest rate, as increased or reduced, equals or approximates a generally available Canadian market interest rate,” 5

«(iii.1) à une personne sous forme de rente en vertu d'un contrat qui prévoit l'augmentation ou la réduction de la rente uniquement en fonction d'une modification au taux d'intérêt sur lequel la rente est fondée, si le taux d'intérêt, augmenté ou réduit, correspond exactement ou approximativement à un taux d'intérêt généralement offert sur le marché canadien,» 10

(2) All that portion of subsection 146(4) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

(2) Le passage du paragraphe 146(4) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

No tax while trust governed by plan

“(4) Except as provided in subsection (10.1), no tax is payable under this Part by a trust on the taxable income of the trust for a taxation year if, throughout the period in the year during which the trust was in existence, the trust was governed by a registered retirement savings plan, except that” 20

“(4) Sous réserve du paragraphe (10.1), aucun impôt n'est payable en vertu de la présente partie par une fiducie sur son revenu imposable pour une année d'imposition si, tout au long de la période de l'année où la fiducie existait, elle était régie par un régime enregistré d'épargne-retraite; toutefois,» 20

Exonération d'impôt d'une fiducie régie par le régime

(3) Subsections 146(5.3), (5.4) and (5.5) of the said Act are repealed.

(3) Les paragraphes 146(5.3), (5.4) et (5.5) de la même loi sont abrogés.

(4) Section 146 of the said Act is further amended by adding thereto, immediately after subsection (10) thereof, the following subsection:

(4) L'article 146 de la même loi est modifié par insertion, après le paragraphe (10), de ce qui suit :

Where tax payable

“(10.1) Where in a taxation year a trust governed by a registered retirement savings plan holds a property that is a non-qualified investment, 30

(a) tax is payable under this Part by the trust on the amount that its taxable income for the year would be if it had no incomes or losses from sources other than non-qualified investments and no capital gains or losses other than from dispositions of non-qualified investments; and 35

(b) for the purposes of paragraph (a), (i) “income” includes dividends described in section 83, and (ii) paragraphs 38(a) and (b) shall be read without reference to the words “1/2 of” where they appear therein.” 40 45

“(10.1) Lorsqu'une fiducie régie par un régime enregistré d'épargne-retraite détient, au cours d'une année d'imposition, un bien qui est un placement non admissible, 30

a) la fiducie doit payer un impôt en vertu de la présente partie sur le montant qui serait son revenu imposable pour l'année si les sources de ses revenus et pertes n'étaient que des placements non admissibles et si ses gains en capital et pertes en capital ne résultaient que de la disposition de tels placements; 35

b) pour l'application de l'alinéa a), (i) «revenu» comprend les dividendes visés à l'article 83, et (ii) il n'est pas tenu compte de la mention «la moitié de» aux alinéas 38a) et b).» 40 45

Impôt payable

(5) Subsection (1) is applicable after 1981.

(5) Le paragraphe (1) s'applique après 1981.

(6) Subsection (2) is applicable to the 1986 and subsequent taxation years.

(7) Subsection (3) is applicable with respect to premiums paid after May 23, 1985 under a registered retirement savings plan in respect of taxable capital gains realized on a disposition of qualified farm property after 1984.

(8) Subsection (4) is applicable to the 1986 and subsequent taxation years in respect of property acquired after October 31, 1985.

82. (1) The heading preceding section 146.2 and subsections 146.2(1) to (3) of the said Act are repealed.

(2) Subsection 146.2(4) of the said Act is repealed.

(3) Subsection 146.2(5) of the said Act is repealed.

(4) Subsection 146.2(6) of the said Act is repealed.

(5) Subsection 146.2(6.1) of the said Act is repealed.

(6) Subsections 146.2(7) to (8) of the said Act are repealed.

(7) Subsection 146.2(8.1) of the said Act is repealed.

(8) Subsections 146.2(9) and (10) of the said Act are repealed.

(9) Subsections 146.2(11) to (21) of the said Act are repealed.

(10) Section 146.2 of the said Act is further amended by adding thereto the following subsection:

“(22) There shall be included in computing the income of a taxpayer for the 1985 taxation year an amount equal to that portion of the income of a registered home ownership savings plan, under which he is a beneficiary, that can reasonably be considered to have accrued to the end of 1985, to have become receivable or to have been received before the end of 1985, and to be attributable to amounts contributed after May 22, 1985 to or under the plan.”

(6) Le paragraphe (2) s'applique aux années d'imposition 1986 et suivantes.

(7) Le paragraphe (3) s'applique aux primes payées après le 23 mai 1985 en vertu d'un régime enregistré d'épargne-retraite au titre des gains en capital imposables réalisés sur la disposition de biens agricoles admissibles après 1984.

(8) Le paragraphe (4) s'applique aux années d'imposition 1986 et suivantes dans le cas des biens acquis après le 31 octobre 1985.

82. (1) L'intertitre qui précède l'article 146.2 et les paragraphes 146.2(1) à (3) de la même loi sont abrogés.

(2) Le paragraphe 146.2(4) de la même loi est abrogé.

(3) Le paragraphe 146.2(5) de la même loi est abrogé.

(4) Le paragraphe 146.2(6) de la même loi est abrogé.

(5) Le paragraphe 146.2(6.1) de la même loi est abrogé.

(6) Les paragraphes 146.2(7) à (8) de la même loi sont abrogés.

(7) Le paragraphe 146.2(8.1) de la même loi est abrogé.

(8) Les paragraphes 146.2(9) et (10) de la même loi sont abrogés.

(9) Les paragraphes 146.2(11) à (21) de la même loi sont abrogés.

(10) L'article 146.2 de la même loi est modifié par adjonction de ce qui suit :

«(22) Un montant égal à la partie du revenu d'un régime enregistré d'épargne-logement dont un contribuable est bénéficiaire, qu'il est raisonnable de considérer comme accumulée jusqu'à la fin de 1985, comme devenue à recevoir ou reçue avant la fin de 1985 et comme attribuable aux contributions versées après le 22 mai 1985 dans le cadre du régime, doit être inclus dans le calcul du revenu du contribuable pour l'année d'imposition 1985.»

(11) Subsections (1), (3), (5), (7) and (9) are applicable to the 1986 and subsequent taxation years.

(12) Subsections (2) and (4) are applicable with respect to contributions made under, and amounts received out of or under, registered home ownership savings plans after May 22, 1985.

(13) Subsection (6) is applicable with respect to revocations that are effective as of 10 any date that is after May 22, 1985.

(14) Subsection (8) is applicable with respect to deaths occurring after May 22, 1985.

(15) Subsection (10) is applicable to the 15 1985 taxation year.

83. (1) Subsections 147(10.1) and (10.2) of the said Act are repealed and the following substituted therefor:

“(10.1) For the purposes of subsections 20 (10) and (10.2), where a beneficiary under a deferred profit sharing plan has received, in a taxation year and when he was resident in Canada, from a trustee under the plan a single payment that included shares 25 of the capital stock of a corporation that was an employer who contributed to the plan or of a corporation with which the employer did not deal at arm's length upon his withdrawal from the plan or retirement 30 from employment or upon the death of an employee or former employee and has made an election in respect thereof in prescribed manner and prescribed form, the amount determined for the year under this 35 subsection in relation to the plan and in respect of the beneficiary is the amount, if any, by which the fair market value of those shares, immediately before the single payment was made, exceeds the cost 40 amount to the plan of those shares at that time.

(10.2) Where a trustee under a deferred profit sharing plan has at any time in a taxation year made under the plan a single 45 payment that included shares referred to in subsection (10.1) to a beneficiary who

(11) Les paragraphes (1), (3), (5), (7) et (9) s'appliquent aux années d'imposition 1986 et suivantes.

(12) Les paragraphes (2) et (4) s'appliquent aux contributions versées dans le cadre 5 d'un régime enregistré d'épargne-logement après le 22 mai 1985 et aux sommes reçues d'un tel régime ou en vertu d'un tel régime après cette date.

(13) Le paragraphe (6) s'applique aux 10 révocations prenant effet à une date postérieure au 22 mai 1985.

(14) Le paragraphe (8) s'applique aux décès survenus après le 22 mai 1985.

(15) Le paragraphe (10) s'applique à l'an- 15 née d'imposition 1985.

83. (1) Les paragraphes 147(10.1) et (10.2) de la même loi sont abrogés et remplacés par ce qui suit :

«(10.1) Pour l'application des para- 20 graphes (10) et (10.2), un bénéficiaire d'un régime de participation différée aux bénéfices qui, dans une année d'imposition et alors qu'il réside au Canada, reçoit d'un fiduciaire du régime un paiement unique 25 qui comprend des actions du capital-actions d'une corporation qui est un employeur qui cote au régime ou d'une corporation avec laquelle celle-ci a un lien de dépendance, à l'occasion de son retrait 30 du régime, de son départ à la retraite ou du décès d'un employé ou d'un ancien employé, peut faire un choix en ce qui concerne ce paiement, de la manière prescrite et selon le formulaire prescrit, pour 35 que la somme déterminée pour l'année en vertu du présent paragraphe relativement au régime et à l'égard du bénéficiaire soit égale à l'excédent éventuel de la juste valeur marchande de ces actions immédia- 40 tement avant que le paiement unique soit fait sur le coût indiqué de ces actions pour le régime à cette date.

(10.2) Lorsque, à une date quelconque d'une année d'imposition, un fiduciaire 45 d'un régime de participation différée aux bénéfices fait, dans le cadre du régime, un paiement unique qui comprend des actions

Single payment
on retirement
etc.

Paiement
unique en cas
de retrait,
retraite ou
décès

Idem

Idem

was resident in Canada at the time and the beneficiary has made an election under subsection (10.1) in respect of that payment,

(a) the trustee shall be deemed to have disposed of those shares for proceeds of disposition equal to the cost amount to the trust of those shares immediately before the single payment was made;

(b) the cost to the beneficiary of those shares shall be deemed to be their cost amount to the trust immediately before the single payment was made; and

(c) the cost to the beneficiary of each of those shares shall be deemed to be the amount determined by the formula

$$A \times \frac{B}{C}$$

where

A is the amount determined under paragraph (a) in respect of all of those shares,

B is the fair market value of that share at the time the single payment was made, and

C is the fair market value of all of those shares at the time the single payment was made."

(2) Section 147 of the said Act is further amended by adding thereto, immediately after subsection (10.3) thereof, the following subsections:

"(10.4) Where a taxpayer has a share in respect of which he has made an election under subsection (10.1), there shall be included in computing his income for the taxation year in which he disposed of or exchanged the share or ceased to be a resident of Canada, whichever is the earlier, the amount, if any, by which the fair market value of the share at the time he acquired it exceeds the cost to him, determined under paragraph (10.2)(c), of the share at the time he acquired it.

(10.5) For the purposes of subsection (10.4), a taxpayer shall be deemed to have

visées au paragraphe (10.1) à un bénéficiaire qui réside au Canada à cette date et que le bénéficiaire fait le choix prévu au paragraphe (10.1) en ce qui concerne ce paiement,

a) le fiduciaire est réputé disposer de ces actions pour un produit de disposition égal à leur coût indiqué pour la fiducie immédiatement avant que le paiement unique soit fait;

b) le coût de ces actions pour le bénéficiaire est réputé correspondre à leur coût indiqué pour la fiducie immédiatement avant que le paiement unique soit fait; et

c) le coût de chacune de ces actions pour le bénéficiaire est réputé correspondre au montant calculé selon la formule suivante :

$$A \times \frac{B}{C}$$

où

A représente le montant calculé selon l'alinéa a) pour toutes ces actions;

B représente la juste valeur marchande de chacune de ces actions à la date du paiement unique;

C représente la juste valeur marchande de toutes ces actions à la date du paiement unique.»

(2) L'article 147 de la même loi est modifié par insertion, après le paragraphe (10.3), de ce qui suit :

«(10.4) Le contribuable qui a une action pour laquelle il a fait le choix prévu au paragraphe (10.1) doit inclure dans le calcul de son revenu, pour l'année d'imposition où, en premier, il dispose de cette action, l'échange ou cesse de résider au Canada, l'excédent éventuel de la juste valeur marchande de cette action à la date où il l'a acquise sur le coût de cette action pour lui à la même date calculé selon l'alinéa (10.2)c).

(10.5) Pour l'application du paragraphe (10.4), un contribuable est réputé disposer

Income on disposal of shares

Order of disposal of shares

Revenu à la disposition d'actions

Ordre de disposition des actions

disposed of or exchanged shares that are identical properties in the order in which he acquired them."

(3) Subsection (1) is applicable with respect to terminations of interests in deferred profit sharing plans occurring after May 23, 1985.

(4) Subsection (2) is applicable to the 1985 and subsequent taxation years.

84. (1) Subsection 149(1) of the said Act is amended by adding thereto, immediately after paragraph (o.2) thereof, the following paragraph:

"(o.3) a corporation that is prescribed to be a small business investment corporation;"

(2) Paragraph 149(1)(v) of the said Act is repealed.

(3) Subsection (1) is applicable with respect to periods occurring after October 20 31, 1985.

(4) Subsection (2) is applicable to the 1986 and subsequent taxation years.

85. (1) Subsection 149.1(1.1) of the said Act is repealed and the following substituted therefor:

"(1.1) For the purposes of paragraphs (2)(b), (3)(b), (4)(b) and (21)(a), the following shall be deemed to be neither an amount expended in a taxation year on 30 charitable activities nor a gift made to a qualified donee:

(a) a specified gift; and

(b) an expenditure on political activities made by a charitable organization or a 35 charitable foundation."

(2) Section 149.1 of the said Act is further amended by adding thereto, immediately after subsection (6) thereof, the following subsections:

"(6.1) For the purposes of paragraph (1)(a), where a corporation or trust devotes substantially all of its resources to charitable purposes and

(a) it devotes part of its resources to 45 political activities,

des actions qui sont des biens identiques, ou est réputé les échanger, dans l'ordre où il les a acquises."

(3) Le paragraphe (1) s'applique aux participations dans des régimes de participation 5 différée aux bénéfices, qui prennent fin après le 23 mai 1985.

(4) Le paragraphe (2) s'applique aux années d'imposition 1985 et suivantes.

84. (1) Le paragraphe 149(1) de la même loi est modifié par insertion, après l'alinéa o.2), de ce qui suit :

«o.3) une corporation qui est, par règlement, une corporation de placement dans des petites entreprises;»

Corporation de placement dans des petites entreprises 15

(2) L'alinéa 149(1)v) de la même loi est abrogé.

(3) Le paragraphe (1) s'applique aux périodes postérieures au 31 octobre 1985.

(4) Le paragraphe (2) s'applique aux 20 années d'imposition 1986 et suivantes.

85. (1) Le paragraphe 149.1(1.1) de la même loi est abrogé et remplacé par ce qui suit :

«(1.1) Pour l'application des alinéas 25 Exclusions (2)b), (3)b), (4)b) et (21)a), sont réputés n'être ni un montant dépensé dans une année d'imposition pour des activités de bienfaisance ni un don à un donataire reconnu :

a) un don désigné;

b) une dépense pour activités politiques faite par une oeuvre de charité ou par une fondation de charité.»

(2) L'article 149.1 de la même loi est 35 modifié par insertion, après le paragraphe (6), de ce qui suit :

«(6.1) Pour l'application de l'alinéa 40 Fins charitables (1)a), la corporation ou fiducie qui consacre presque toutes ses ressources à des fins charitables est considérée comme constituée et administré exclusivement à des fins charitables,

Prescribed small business investment corporation

Exclusions

Charitable purposes

(b) such political activities are ancillary and incidental to its charitable purposes, and

(c) such political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office,

the corporation or trust shall be considered to be constituted and operated for charitable purposes to the extent of that part of its resources so devoted.

(6.2) For the purposes of paragraph (1)(b), where an organization devotes substantially all of its resources to charitable activities carried on by it and

(a) it devotes part of its resources to political activities,

(b) such political activities are ancillary and incidental to its charitable activities, and

(c) such political activities do not include the direct or indirect support of, or opposition to, any political party or candidate for public office,

the organization shall be considered to be devoting that part of its resources to charitable activities carried on by it."

(3) Subsections (1) and (2) are applicable to the 1985 and subsequent taxation years.

86. (1) All that portion of subsection 150(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"150. (1) A return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) and in the case of an individual, for each taxation year for which tax is payable or would be payable if this Part were read without reference to sections 127.2 and 127.3 or in which the individual has a taxable capital gain or has disposed of a capital property, shall, without notice or demand therefor, be filed with the Minister in prescribed form and containing prescribed information,"

a) si elle consacre la partie restante de ses ressources à des activités politiques;

b) si ces activités politiques sont accessoires à ses fins charitables; et

c) si ces activités politiques ne comprennent pas d'activités directes ou indirectes de soutien d'un parti politique ou d'un candidat à une fonction publique ou d'opposition à l'un ou à l'autre.

(6.2) Pour l'application de l'alinéa (1)(b), l'oeuvre qui consacre presque toutes ses ressources à des activités de bienfaisance est considérée comme y consacrant la totalité

a) si elle consacre la partie restante de ses ressources à des activités politiques;

b) si ces activités politiques sont accessoires à ses activités de bienfaisance; et

c) si ces activités politiques ne comprennent pas d'activités directes ou indirectes de soutien à un parti politique ou à un candidat à une fonction publique ou d'opposition à l'un ou à l'autre."

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1985 et suivantes.

86. (1) Le passage du paragraphe 150(1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

"150. (1) Il doit être produit auprès du ministre, sans avis ni mise en demeure, une déclaration de revenu selon le formulaire prescrit, contenant les renseignements prescrits, pour chaque année d'imposition dans le cas d'une corporation — à l'exception d'une corporation qui a été, out au long de l'année, un organisme de charité enregistré — et, dans le cas d'un particulier, pour chaque année d'imposition pour laquelle un impôt est payable ou le serait s'il n'était pas tenu compte des articles 127.2 et 127.3 de la présente partie ou pour chaque année d'imposition où le par-

Charitable activities

Activités de bienfaisance

Returns

Déclarations

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

87. (1) Subsection 157(1) of the said Act is repealed and the following substituted therefor:

“157. (1) Every corporation shall, in respect of each of its taxation years, pay to the Receiver General

(a) either

(i) on or before the last day of each month in the year, an amount equal to 1/12 of the amount estimated by it to be the tax payable under this Part by it for the year computed without reference to sections 123.1, 127.2 and 157.3,

(ii) on or before the last day of each month in the year, an amount equal to 1/12 of its first instalment base for the year, or

(iii) on or before the last day of each of the first two months in the year, an amount equal to 1/12 of its second instalment base for the year, and on or before the last day of each of the 25 following months in the year, an amount equal to 1/10 of the amount remaining after deducting the amount computed pursuant to this subparagraph in respect of the first two 30 months from its first instalment base for the year; and

(b) the remainder of the tax payable by it under this Part for the year

(i) on or before the end of the third 35 month following the end of the year, where

(A) an amount was deducted by virtue of section 125 in computing the tax payable under this Part by 40 the corporation for the year or its immediately preceding taxation year, and

(B) the corporation is, throughout the year, a Canadian-controlled 45 private corporation whose taxable income for the immediately preceding taxation year together with the

ticulier a un gain en capital imposable ou a disposé d'un bien en immobilisation :»

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

87. (1) Le paragraphe 157(1) de la même 5 loi est abrogé et remplacé par ce qui suit :

«157. (1) Toute corporation doit verser au receveur général, pour chacune de ses années d'imposition,

a) un des montants suivants :

(i) un montant égal à 1/12 du montant qu'elle estime être son impôt payable pour l'année en vertu de la présente partie, calculé sans tenir compte des articles 123.1, 127.2 et 157.3, au plus tard le dernier jour de chaque mois de l'année,

(ii) un montant égal à 1/12 de sa première base des acomptes provisionnels pour l'année, au plus tard le dernier jour de chaque mois de l'année,

(iii) un montant égal à 1/12 de sa deuxième base des acomptes provisionnels pour l'année, au plus tard le dernier jour de chacun des deux premiers 25 mois de l'année, et un montant égal à 1/10 du restant une fois déduit de sa première base des acomptes provisionnels pour l'année le montant calculé en vertu du présent sous-alinéa 30 pour les deux premiers mois, au plus tard le dernier jour de chacun des 10 mois suivants de l'année; et

b) le solde de son impôt payable en vertu de la présente partie pour l'année, 35

(i) au plus tard à la fin du troisième mois suivant la fin de l'année, dans le cas où :

(A) un montant a été déduit selon l'article 125 dans le calcul de l'im- 40 pôt payable par la corporation en vertu de la présente partie pour l'année ou pour son année d'imposition précédente, et

(B) la corporation est, tout au long 45 de l'année, une corporation privée dont le contrôle est canadien et dont le total de son revenu imposable pour l'année d'imposition précé-

Corporations

Corporation

taxable incomes of all corporations with which it was associated in the year for their taxation years ending in the calendar year immediately preceding the calendar year in which the taxation year of the corporation ended does not exceed the aggregate of the business limits (as determined under section 125) of the corporation and the associated corporations for those preceding years, or

(ii) on or before the end of the second month following the end of the year, in any other case.”

(2) Subsection (1) is applicable with respect to the 1985 and subsequent taxation years except that in the application of subsection 157(1), as enacted by subsection (1), to the 1985 taxation year it shall be read as follows:

“157. (1) Every corporation shall, during the 15 month period ending 3 months after the close of a taxation year, pay to the Receiver General

(a) either

(i) on or before the last day of each of the first 12 months in that period, an amount equal to 1/12 of the amount estimated by it to be the tax payable under this Part by it for the year computed without reference to sections 123.1, 127.2 and 127.3,

(ii) on or before the last day of each of the first 12 months in that period, an amount equal to 1/12 of its first instalment base for the year, or

(iii) on or before the last day of each of the first 2 months in that period, an amount equal to 1/12 of its second instalment base for the year, and on or before the last day of each of the next following 10 months in that period, an amount equal to 1/10 of the amount remaining after deducting the amount computed pursuant to this subparagraph in respect of the first 2 months of the period from its first instalment base for the year; and

dente et du revenu imposable de toutes les corporations avec lesquelles elle a été associée dans l'année, pour leurs années d'imposition qui se terminent au cours de l'année civile précédant l'année civile où s'est terminée l'année d'imposition de la corporation, ne dépasse pas le total du plafond des affaires (déterminé selon l'article 125) de la corporation et de celui des corporations associées pour ces années précédentes,

(ii) au plus tard à la fin du deuxième mois suivant la fin de l'année, dans les autres cas.»

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes; toutefois, pour l'application du paragraphe 157(1) de la même loi, édicté par le paragraphe (1), à l'année d'imposition 1985, le paragraphe 157(1) est remplacé par ce qui suit :

«157. (1) Toute corporation doit verser au receveur général, pour la période de 15 mois se terminant 3 mois après la fin d'une année d'imposition,

a) un des montants suivants :

(i) un montant égal à 1/12 du montant qu'elle estime être son impôt payable pour l'année en vertu de la présente partie, calculé sans tenir compte des articles 123.1, 127.2 et 127.3, au plus tard le dernier jour de chacun des 12 premiers mois de la période,

(ii) un montant égal à 1/12 de sa première base des acomptes provisionnels pour l'année, au plus tard le dernier jour de chacun des 12 premiers mois de la période,

(iii) un montant égal à 1/12 de sa deuxième base des acomptes provisionnels pour l'année, au plus tard le dernier jour de chacun des deux premiers mois de la période, et un montant égal à 1/10 du restant une fois déduit de sa première base des acomptes provisionnels pour l'année le montant calculé en vertu du présent sous-alinéa pour les deux premiers mois de la période, au plus tard le

(b) the remainder of the tax as estimated by it under section 151,

(i) on or before the last day of the period, where the corporation is, throughout the year, a Canadian-controlled private corporation and the aggregate of its taxable income for the immediately preceding taxation year and the taxable incomes of all corporations with which it was associated in the year for their taxation years ending in the calendar year in which the immediately preceding taxation year of the corporation ended does not exceed the aggregate of the 15 business limits (as determined under section 125) of the corporation and the associated corporations for those years, or

(ii) on or before the last day of the fourteenth month of the period, in any other case.”

dernier jour de chacun des 10 mois suivants de la période; et

b) le solde de son impôt estimé en vertu de l'article 151,

(i) au plus tard le dernier jour de la période, lorsque la corporation est, tout au long de l'année, une corporation privée dont le contrôle est canadien et que le total de son revenu imposable pour l'année d'imposition précédente et du revenu imposable de toutes les corporations avec lesquelles elle a été associée dans l'année, pour leurs années d'imposition qui se terminent au cours de l'année civile où s'est terminée l'année d'imposition précédente de la corporation, ne dépasse pas le total du plafond des affaires (déterminé selon l'article 125) de la corporation et celui des corporations associées pour ces années, ou

(ii) au plus tard le dernier jour du quatorzième mois de la période, dans les autres cas.»

88. (1) Paragraph 160(1)(d) of the said Act is repealed and the following substituted therefor:

“(d) the transferee and transferor are jointly and severally liable to pay a part of the transferor's tax under this Part for each taxation year equal to the amount by which the tax for the year is greater than it would have been if it were not for the operation of sections 74 to 75.1, in respect of any income from, or gain from the disposition of, the property so transferred or property substituted therefor, and”

(2) Subsection (1) is applicable after May 21, 1985.

89. (1) Paragraph 161(4.1)(a) of the said Act is repealed and the following substituted therefor:

“(a) the tax payable under this Part by it for the year computed without refer-

88. (1) L'alinéa 160(1)d) de la même loi est abrogé et remplacé par ce qui suit :

«d) le bénéficiaire et l'auteur du transfert sont conjointement et solidairement responsables du paiement d'une partie de l'impôt de l'auteur du transfert en vertu de la présente partie pour chaque année d'imposition, égale à l'excédent de l'impôt pour l'année sur ce que cet impôt aurait été sans l'application des articles 74 à 75.1 à l'égard de tout revenu tiré des biens ainsi transférés ou des biens y substitués ou à l'égard de tout gain tiré de la disposition de tels biens,»

(2) Le paragraphe (1) s'applique après le 21 mai 1985.

89. (1) L'alinéa 161(4.1)a) de la même loi est abrogé et remplacé par ce qui suit :

«a) l'impôt payable par elle pour l'année en vertu de la présente partie, cal-

ence to sections 123.1, 127.2 and 127.3,”

(2) Subparagraph 161(7)(a)(i) of the said Act is repealed.

(3) Paragraph 161(7)(a) of the said Act is further amended by adding thereto, immediately after subparagraph (iv.1) thereof, the following subparagraph:

“(iv.2) any amount deducted in computing his income for the year by virtue of an election in a subsequent taxation year under paragraph 164(6)(c) or (d) by his legal representative,”

(4) Subparagraphs 161(7)(b)(ii) and (iii) of the said Act are repealed and the following substituted therefor:

“(ii) the day on which the taxpayer’s or his legal representative’s return of income for that subsequent taxation year was filed,
(iii) where an amended return of the taxpayer’s income for the year or a prescribed form amending his return of income for the year was filed in accordance with subsection 49(4) or 152(6) or paragraph 164(6)(e), the day on which the amended return or prescribed form was filed, and”

(5) Section 161 of the said Act is further amended by adding thereto the following subsection:

“(11) Where a taxpayer is required by this Part to pay a penalty and fails to pay all or any part thereof as required, he shall pay to the Receiver General interest at the prescribed rate on the amount he failed to pay computed,
(a) in the case of a penalty payable by virtue of subsection 162(1), (2) or (3) from the day on or before which the taxpayer’s return of income for the taxation year in respect of which the penalty is payable was, or would have been if tax under this Part were payable by him for the year, required to be filed to the day of payment; and

culé sans tenir compte des articles 123.1, 127.2 et 127.3,»

(2) Le sous-alinéa 161(7)a(i) de la même loi est abrogé.

(3) L’alinéa 161(7)a de la même loi est modifié par insertion, après le sous-alinéa (iv.1), de ce qui suit :

«(iv.2) un montant déduit dans le calcul de son revenu pour l’année à cause d’un choix effectué par son représentant légal dans une année d’imposition ultérieure en vertu de l’alinéa 164(6)c) ou d),»

(4) Les sous-alinéas 161(7)b(ii) et (iii) de la même loi sont abrogés et remplacés par ce qui suit :

«(ii) le jour où la déclaration de revenu du contribuable ou de son représentant légal pour cette année d’imposition ultérieure a été produite,
(iii) le jour où une déclaration modifiée du revenu du contribuable pour l’année ou un formulaire prescrit modifiant sa déclaration de revenu pour l’année a été produit conformément au paragraphe 49(4) ou 152(6) ou à l’alinéa 164(6)e), dans le cas où il y a une telle production,»

(5) L’article 161 de la même loi est modifié par adjonction de ce qui suit :

«(11) Un contribuable tenu par la présente partie de payer une pénalité, qui ne la paie pas ou qui ne paie pas la partie qu’il doit payer, doit payer au receveur général des intérêts sur le montant impayé, calculés au taux prescrit
a) pour la période allant de la date où le contribuable doit, au plus tard, produire sa déclaration de revenu pour l’année d’imposition à l’égard de laquelle la pénalité est payable, ou de la date où il aurait à produire une telle déclaration s’il était redevable d’un impôt en vertu de la présente partie pour l’année, jusqu’à la date du paiement, en cas de

Interest on penalty

Intérêts sur pénalité

Interest on
refunds and
repayments

Intérêts sur
sommes
remboursées

<p>(b) in the case of a penalty payable by virtue of any other provision of this Act, from the day of mailing of the notice of original assessment of the penalty to the day of payment.”</p>	5	<p>pénalité payable en vertu du paragraphe 162(1), (2) ou (3) ou 163(1) ou (2);</p> <p>b) pour la période allant de la date de mise à la poste du premier avis de cotisation concernant la pénalité jusqu’à la date du paiement, en cas de pénalité payable en vertu d’une autre disposition.»</p>	5
<p>(6) Subsections (1), (3) and (4) are applicable to the 1985 and subsequent taxation years.</p>		<p>(6) Les paragraphes (1), (3) et (4) s’appliquent aux années d’imposition 1985 et suivantes.</p>	10
<p>(7) Subsection (2) is applicable to the 1986 and subsequent taxation years.</p>		<p>(7) Le paragraphe (2) s’applique aux 10 années d’imposition 1986 et suivantes.</p>	
<p>(8) Subsection (5) shall come into force on a day to be fixed by proclamation, except that interest is not payable under subsection 161(11) of the said Act, as enacted by subsection (5), for any part of a period before the day so fixed.</p>	15	<p>(8) Le paragraphe (5) entre en vigueur à la date fixée par proclamation; toutefois, 15 aucun intérêt n’est payable en vertu du paragraphe 161(11) de la même loi, édicté par le paragraphe (5), pour toute partie d’une période qui tombe avant la date de proclamation.</p>	20
<p>90. (1) All that portion of subsection 164(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:</p>	20	<p>90. (1) Le passage du paragraphe 164(3) de la même loi qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :</p>	
<p>“(3) Where under this section an amount in respect of a taxation year is refunded or repaid to a taxpayer or applied to another liability, the Minister shall pay or apply interest thereon at the prescribed rate for the period beginning on the day that is the latest of the following days:”</p>	25	<p>«(3) Lorsque, en vertu du présent article, une somme à l’égard d’une année d’imposition est remboursée à un contribuable ou imputée sur un autre montant dont le contribuable est redevable, le ministre doit payer à celui-ci les intérêts afférents à cette somme au taux prescrit ou les imputer sur ce montant, pour la période allant du dernier en date des jours visés aux alinéas suivants jusqu’au jour où la somme est remboursée ou imputée, sauf si les intérêts ainsi calculés sont inférieurs à 1 \$, auquel cas aucun intérêt n’est payé ni imputé en vertu du présent paragraphe :»</p>	25
<p>(2) Paragraphs 164(3)(d) and (e) of the said Act are repealed and the following substituted therefor:</p>	30	<p>(2) Les alinéas 164(3)d) et e) de la même loi sont abrogés et remplacés par ce qui suit :</p>	40
<p>“(d) in the case of a refund of an overpayment, the day the overpayment arose, and</p> <p>(e) in the case of a repayment of an amount in controversy, the day an overpayment equal to the amount of the</p>	35	<p>«d) dans le cas d’un remboursement d’un paiement en trop d’impôt, le jour où il y a eu paiement en trop;</p> <p>e) dans le cas d’un remboursement d’une somme en litige, le jour où il y aurait eu un paiement en trop égal à la</p>	45

repayment would have arisen if the aggregate of all amounts payable on account of the taxpayer's liability under this Part for the year were the amount by which

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(i) the lesser of the aggregate of all amounts paid on account of his liability under this Part for the year and the aggregate of all amounts assessed by the Minister as payable under this Part by the taxpayer for the year

exceeds

(ii) the amount repaid,"

(3) All that portion of subsection 164(4) of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:

"(4) Where at any particular time interest has been paid to, or applied to a liability of, a taxpayer pursuant to subsection (3) in respect of the repayment of an amount in controversy made to, or applied to a liability of, the taxpayer and it is determined at a subsequent time that the repayment or a part thereof is payable by the taxpayer under this Part, the following rules apply:

(a) the interest so paid or applied on that part of the repayment that is determined at the subsequent time to be payable by the taxpayer under this Part shall be deemed to be an amount (in this subsection referred to as the "interest excess") that became payable under this Part by the taxpayer at the particular time;"

(4) Paragraph 164(5)(a) of the said Act is repealed.

(5) Subsection 164(5) of the said Act is further amended by striking out the word "or" at the end of paragraph (g) thereof, by adding the word "or" at the end of paragraph (h) thereof and by adding thereto, immediately after paragraph (h) thereof, the following paragraph:

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somme remboursée si le total des montants payables sur ce dont le contribuable est redevable en vertu de la présente partie pour l'année était égal à l'excédent

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(i) du moindre du total des sommes versées sur ce dont il est redevable en vertu de la présente partie pour l'année ou du total des montants qui, selon la cotisation établie par le ministre, sont payables en vertu de la présente partie par le contribuable pour l'année

sur

(ii) la somme remboursée.»

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(3) Le passage du paragraphe 164(4) de la même loi qui précède l'alinéa b) est abrogé et remplacé par ce qui suit :

«(4) Lorsque, à une date donnée, des intérêts sur une somme en litige remboursée au contribuable ou imputée sur un montant dont celui-ci est redevable, lui sont payés ou sont imputés sur ce montant, conformément au paragraphe (3), et qu'il est établi par la suite que le contribuable doit payer tout ou partie de la somme remboursée en vertu de la présente partie, les règles suivantes s'appliquent :

Intérêts sur
intérêts
remboursés

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a) les intérêts ainsi payés ou imputés correspondant à la partie de la somme remboursée qui, par la suite, est déterminée comme payable par le contribuable en vertu de la présente partie sont réputés représenter un montant — appelé «intérêts excédentaires» au pré- sent paragraphe — payable en vertu de la présente partie par le contribuable à la date donnée;»

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(4) L'alinéa 164(5)a) de la même loi est abrogé.

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(5) Le paragraphe 164(5) de la même loi est modifié par suppression du mot «ou» à la fin de l'alinéa g), par adjonction de ce mot à la fin de l'alinéa h) et par insertion, après cet alinéa, de ce qui suit :

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“(h.1) the deduction of an amount in computing his income for the year by virtue of an election for a subsequent taxation year under paragraph (6)(c) or (d) by his legal representative,”	5	«h.1) la déduction d’un montant dans le calcul de son revenu pour l’année à cause d’un choix pour une année d’imposition ultérieure effectué par son représentant légal en vertu de l’alinéa 5 (6)c) ou d),»
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(6) Paragraphs 164(5)(j) and (k) of the said Act are repealed and the following substituted therefor:

(6) Les alinéas 164(5)j) et k) de la même loi sont abrogés et remplacés par ce qui suit :

“(j) the day on which the taxpayer’s or his legal representative’s return of 10 income for that subsequent taxation year was filed, (k) where an amended return of the taxpayer’s income for the year or a prescribed form amending his return of 15 income for the year was filed under subsection 49(4) or 152(6) or paragraph (6)(e), the day on which the amended return or prescribed form was filed, and”	20	«j) le jour où la déclaration de revenu du contribuable ou de son représentant 10 légal pour cette année d’imposition ultérieure a été produite; k) le jour où une déclaration modifiée du revenu du contribuable pour l’année ou un formulaire prescrit modifiant sa 15 déclaration de revenu pour l’année a été produit conformément au paragraphe 49(4) ou 152(6) ou à l’alinéa (6)e), dans le cas où il y a une telle production;»
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(7) Paragraph 164(5.1)(a) of the said Act is repealed.

(7) L’alinéa 164(5.1)a) de la même loi est 20 abrogé.

(8) Subsection 164(5.1) of the said Act is further amended by striking out the word “or” at the end of paragraph (g) thereof, by 25 adding the word “or” at the end of paragraph (h) thereof and by adding thereto, immediately after paragraph (h) thereof, the following paragraph:

(8) Le paragraphe 164(5.1) de la même loi est modifié par suppression du mot «ou» à la fin de l’alinéa g) et par insertion, après l’alinéa h), de ce qui suit : 25

“(h.1) the deduction of an amount in 30 computing his income for the year by virtue of an election for a subsequent taxation year under paragraph (6)(c) or (d) by his legal representative,”	30	«h.1) la déduction d’un montant dans le calcul de son revenu pour l’année à cause d’un choix pour une année d’imposition ultérieure effectué par son représentant légal en vertu de l’alinéa 30 (6)(c) ou d),»
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(9) Paragraphs 164(5.1)(j) and (k) of the 35 said Act are repealed and the following substituted therefor:

(9) Les alinéas 164(5.1)j) et k) de la même loi sont abrogés et remplacés par ce qui suit :

“(j) the day on which the taxpayer’s or his legal representative’s return of income for that subsequent taxation 40 year was filed, (k) where an amended return of the taxpayer’s income for the year or a prescribed form amending his return of income for the year was filed under 45 subsection 49(4) or 152(6) or paragraph	45	«j) le jour où la déclaration de revenu 35 du contribuable ou de son représentant légal pour cette année d’imposition ultérieure a été produite; k) le jour où une déclaration modifiée du revenu du contribuable pour l’année 40 ou un formulaire prescrit modifiant sa déclaration de revenu pour l’année a été produit conformément au paragraphe
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(6)(e), the day on which the amended return or prescribed form was filed, and”

49(4) ou 152(6) ou à l’alinéa (6)e), dans le cas où il y a une telle production;»

(10) Paragraph 164(6)(a) of the said Act is repealed and the following substituted therefor:

(10) L’alinéa 164(6)a) de la même loi est abrogé et remplacé par ce qui suit :

“(a) disposed of capital property of the estate so that the aggregate of all amounts each of which is a capital loss from the disposition of a property 10 exceeds the aggregate of all amounts each of which is a capital gain from the disposition of a property, or”

«a) disposé de biens en immobilisation 5 de la succession de telle sorte que le total des sommes dont chacune représente une perte en capital à la disposition d’un bien excède le total des 10 sommes dont chacune représente un gain en capital sur la disposition d’un bien, ou»

(11) All that portion of subsection 164(6) of the said Act following paragraph (b) 15 thereof is repealed and the following substituted therefor:

(11) Le passage du paragraphe 164(6) de la même loi qui suit l’alinéa b) est abrogé et 15 remplacé par ce qui suit :

“notwithstanding any other provision of this Act, the following rules apply:

«les règles suivantes s’appliquent, nonob- 15 stant les autres dispositions de la présente loi :

(c) such part of one or more capital 20 losses from the disposition of properties referred to in paragraph (a), the aggregate of such amounts not to exceed the excess referred to in paragraph (a), as the legal representative so elects, in pre- 25 scribed manner and within a prescribed time, shall be deemed to be capital losses of the deceased taxpayer from the disposition of the properties by him in his taxation year in which he died and 30 not to be capital losses of the estate from the disposition of those properties for its first taxation year;

c) la partie, que le représentant légal choisit de la manière prescrite et dans le 20 délai prescrit, d’une ou de plusieurs pertes en capital à la disposition des biens visés à l’alinéa a) dont le total ne dépasse pas l’excédent visé à cet alinéa, est réputée représenter des pertes en 25 capital du contribuable décédé à la disposition de ces biens par celui-ci dans l’année d’imposition où il est décédé, et non des pertes en capital de la suc- 30 cession à la disposition de ces biens pour la première année d’imposition de la succession;

(d) such part of the amount of any deduction described in paragraph (b) 35 (not exceeding the amount that, but for this subsection, would be the aggregate of the non-capital loss and the farm loss of the estate for its first taxation year) as the legal representative so elects, in 40 prescribed manner and within a prescribed time, shall be deductible in computing the income of the taxpayer for his taxation year in which he died and shall not be an amount deductible in 45 computing any loss of the estate for its first taxation year;

d) la partie de toute déduction visée à l’alinéa b) (ne dépassant pas le montant 35 qui, sans le présent paragraphe, correspondrait au total de la perte autre qu’une perte en capital et de la perte agricole de la succession pour sa première année d’imposition) que le repré- 40 sentant légal choisit de la manière prescrite et dans le délai prescrit est déductible dans le calcul du revenu du contribuable pour l’année d’imposition 45 où celui-ci est décédé, et non pas déductible dans le calcul de toute perte de la succession pour la première année d’imposition de la succession;

(e) the legal representative shall, at or before the time prescribed for filing the election referred to in paragraphs (c) and (d), file an amended return of income for the deceased taxpayer for his taxation year in which he died to give effect to the rules in paragraphs (c) and (d); and

(f) in computing the taxable income of the deceased taxpayer for a taxation year preceding the year in which he died, no amount may be deducted in respect of an amount referred to in paragraph (c) or (d).”

e) pour donner effet aux règles indiquées aux alinéas c) et d), le représentant légal doit produire, au plus tard à la date prescrite de production du choix prévu à ces alinéas, une déclaration de revenu modifiée au nom du contribuable décédé pour l'année d'imposition où celui-ci est décédé;

f) aucun montant n'est déductible au titre d'un montant visé à l'alinéa c) ou d) dans le calcul du revenu imposable du contribuable décédé pour une année d'imposition antérieure à l'année où il est décédé.»

(12) Subsection (1) shall come into force on a day to be fixed by proclamation, except that interest is not payable under subsection 164(3) of the said Act, as amended by subsection (1), for any part of a period before the day so fixed on an amount refunded or repaid in respect of interest or a penalty paid by a taxpayer.

(12) Le paragraphe (1) entre en vigueur à la date fixée par proclamation; toutefois, aucun intérêt n'est payable selon le paragraphe 164(3) de la même loi, modifié par le paragraphe (1), sur une somme remboursée au titre d'intérêts ou d'une pénalité, payés par le contribuable, pour toute partie d'une période qui tombe avant la date de proclamation.

(13) Subsections (2) and (3) shall come into force on a day to be fixed by proclamation.

(13) Les paragraphes (2) et (3) entrent en vigueur à la date fixée par proclamation.

(14) Subsections (4) and (7) are applicable to the 1986 and subsequent taxation years.

(14) Les paragraphes (4) et (7) s'appliquent aux années d'imposition 1986 et suivantes.

(15) Subsections (5), (6) and (8) to (11) are applicable to the 1985 and subsequent taxation years.

(15) Les paragraphes (5), (6) et (8) à (11) s'appliquent aux années d'imposition 1985 et suivantes.

91. Paragraph 168(1)(e) of the said Act is repealed and the following substituted therefor:

91. L'alinéa 168(1)e) de la même loi est abrogé et remplacé par ce qui suit :

“(e) fails to comply with or contravenes any of sections 230 to 231.5, or”

«e) omet de se conformer aux articles 230 à 231.5 ou y contrevient, ou»

92. (1) Subsection 172(3) of the said Act is amended by adding the word “or” at the end of paragraph (e) thereof and by repealing paragraph (f) thereof.

92. (1) L'alinéa 172(3)f) de la même loi est abrogé.

(2) All that portion of subsection 172(3) of the said Act following paragraph (g) thereof is repealed and the following substituted therefor:

(2) Le passage du paragraphe 172(3) de la même loi qui suit l'alinéa g) est abrogé et remplacé par ce qui suit :

“the applicant or the organization, foundation, association or registered charity, as

«le demandeur ou l'oeuvre, la fondation, l'association ou l'organisme enregistré,

the case may be, in a case described in paragraph (a) or (a.1), the applicant in a case described in paragraph (b), (d), (e) or (g) or a trustee under the plan or an employer of employees who are beneficiaries under the plan, in a case described in paragraph (c), may, notwithstanding section 24 of the *Federal Court Act*, appeal from such decision or from the giving of such notice to the Federal Court of Appeal."

(3) Subsection 172(4) of the said Act is amended by adding the word "or" at the end of paragraph (d) thereof and by repealing paragraph (e) thereof.

93. (1) Sections 180.1 and 180.2 of the said Act are repealed and the following substituted therefor:

"180.1 (1) Every individual (other than a mutual fund trust) liable to pay tax under Part I for a taxation year shall pay a tax equal to,

(a) for the 1986 taxation year, the aggregate of

(i) 5% of the amount, if any, by which his tax payable under Part I for the year exceeds \$6,000, and

(ii) 5% of the amount, if any, by which his tax payable under Part I for the year exceeds \$15,000; and

(b) for the 1985 taxation year, 50% of the aggregate that would be determined under paragraph (a) if the reference therein to "1986" were read as a reference to "1985".

(2) For the purposes of subsection (1), the "tax payable under Part I" by an individual for a taxation year is,

(a) where section 119 is applicable in computing his tax payable for the year, the amount that would be his average tax for the year of averaging, as determined under paragraph (1)(d) thereof, if the expression "deductible under subsection 127(5)" in that paragraph were read as "added under subsection 120(1) or deductible under subsection 120(3.1)

selon le cas, dans une situation visée à l'alinéa a) ou a.1), le demandeur dans une situation visée à l'alinéa b), d), e) ou g), ou un fiduciaire du régime ou un employeur dont les employés sont des bénéficiaires du régime, dans une situation visée à l'alinéa c), peuvent en appeler à la division d'appel de la Cour fédérale de cette décision ou de la signification de cet avis, par dérogation à l'article 24 de la *Loi sur la Cour fédérale*."

(3) L'alinéa 172(4)e) de la même loi est abrogé.

93. (1) Les articles 180.1 et 180.2 de la même loi sont abrogés et remplacés par ce qui suit :

"180.1 (1) Tout particulier (à l'exclusion d'une fiducie de fonds mutuels) qui est redevable d'un impôt en vertu de la partie I pour une année d'imposition doit payer un impôt égal :

a) pour l'année d'imposition 1986, au total des montants suivants :

(i) le montant correspondant à 5% de l'excédent éventuel de l'impôt payable par ce particulier en vertu de la partie I pour l'année sur 6 000 \$,

(ii) le montant correspondant à 5% de l'excédent éventuel de l'impôt payable par ce particulier en vertu de la partie I pour l'année sur 15 000 \$;

b) pour l'année d'imposition 1985, à la moitié du total qui serait calculé selon l'alinéa a) si la mention «1986» y était remplacée par la mention «1985».

(2) Pour l'application du paragraphe (1), l'impôt payable en vertu de la partie I par un particulier pour une année d'imposition correspond,

a) dans le cas où l'article 119 s'applique au calcul de l'impôt payable par le particulier pour l'année, au montant qui serait son impôt moyen pour l'année d'établissement de la moyenne calculé selon l'alinéa 119(1)d) si la mention «déductible pour l'année en vertu du paragraphe 127(5)» y était remplacée

Individual
surtax

Surtaxe des
particuliers

Meaning of
"tax payable
under Part I"

Signification
d'impôt
payable en
vertu de la
partie I

	and sections 122.3, 126, 127 and 127.2 to 127.4”; and	par la mention «ajouté pour l’année en vertu du paragraphe 120(1) ou déductible pour l’année en vertu du paragraphe 120(3.1) et des articles 122.3, 126, 127 et 127.2 à 127.4»;	
	(b) in any other case, the amount that would be his tax payable under that Part for the year if that Part were read without reference to subsections 120(1) and (3.1) and sections 122.3, 126, 127 and 127.2 to 127.4.	b) dans les autres cas, au montant qui serait l’impôt payable par le particulier pour l’année en vertu de la partie I s’il n’était pas tenu compte des paragraphes 120(1) et (3.1) et des articles 122.3, 10 126, 127 et 127.2 à 127.4.	5
Estimate of tax	(3) Every individual (other than a mutual fund trust) required by section 150 10 to file a return of income for a taxation year shall in the return estimate the amount of tax payable by him under this Part for the year.	(3) Tout particulier (à l’exclusion d’une fiducie de fonds mutuels) tenu par l’article 150 de produire une déclaration de revenu pour une année d’imposition doit estimer, 15 dans cette déclaration, l’impôt payable par lui en vertu de la présente partie pour l’année.	Estimation de l’impôt payable
Provisions applicable to Part	(4) Sections 152, 153, 155, 156, 156.1 15 and 158 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”	(4) Les articles 152, 153, 155, 156, 156.1 et 158 à 167, ainsi que la section J 20 de la partie I s’appliquent à la présente partie, avec les adaptations nécessaires.»	Dispositions applicables
	(2) Subsection (1) is applicable to the 1985 and 1986 taxation years except that, in 20 its application to the 1985 taxation year, subsection 180.1(4) of the said Act, as enacted by subsection (1), shall be read as follows:	(2) Le paragraphe (1) s’applique aux années d’imposition 1985 et 1986; toutefois, pour son application à l’année d’imposition 25 1985, le paragraphe 180.1(4) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :	
	“(4) Sections 152 and 158 to 167 and Division J of Part I are applicable to this 25 Part, with such modifications as the circumstances require, and the tax payable under this Part, as estimated under subsection (3), for the 1985 taxation year shall be paid to the Receiver General on or 30 before April 30, 1986.”	“(4) Les articles 152 et 158 à 167, ainsi que la section J de la partie I s’appliquent 30 à la présente partie, avec les adaptations nécessaires, et l’impôt payable en vertu de la présente partie pour l’année d’imposition 1985, estimé en vertu du paragraphe (3), doit être payé au receveur général au 35 plus tard le 30 avril 1986.»	Dispositions applicables
	94. Subsection 182(3) of the said Act is repealed and the following substituted therefor:	94. Le paragraphe 182(3) de la même loi est abrogé et remplacé par ce qui suit :	
Provisions applicable to Part	“(3) Sections 151, 152, 158 and 159, 35 subsections 161(7) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”	“(3) Les articles 151, 152, 158 et 159, les paragraphes 161(7) et (11), les articles 40 162 à 167 et la section J de la partie I s’appliquent à la présente partie, avec les adaptations nécessaires.»	Dispositions applicables
	95. (1) Subsection 184(2) of the said Act 40 is repealed and the following substituted therefor:	95. (1) Le paragraphe 184(2) de la même loi est abrogé et remplacé par ce qui suit : 45	

Tax on
excessive
elections

“(2) Where a corporation has elected in accordance with subsection 83(2), 130.1(4) or 131(1) in respect of the full amount of any dividend payable by it on shares of any class of its capital stock and the full amount of the dividend exceeds the portion thereof deemed by that subsection to be a capital dividend or capital gains dividend, as the case may be, the corporation shall, at the time of the election, pay a tax under this Part equal to 3/4 of the excess.”

(2) Paragraphs 184(3)(a) and (b) of the said Act are repealed and the following substituted therefor:

“(a) the amount by which the full amount of the dividend exceeds the amount of the excess shall be deemed for the purposes of the election that the corporation made in respect of the dividend under subsection 83(1) or (2), 130.1(4) or 131(1) and for all other purposes of this Act to be the full amount of a separate dividend that became payable at the particular time; (b) such portion of the excess as the corporation may claim shall, for the purposes of any election in respect thereof under subsection 83(1) or (2), 130.1(4) or 131(1) and, where the corporation has so elected, for all purposes of this Act, be deemed to be the full amount of a separate dividend that became payable immediately after the particular time;”

(3) Subsection (1) is applicable with respect to capital gains dividends paid after November 21, 1985 other than such dividends declared on or before that day and with respect to life insurance capital dividends paid after May 23, 1985.

(4) Subsection (2) is applicable with respect to dividends paid after May 23, 1985.

96. (1) Section 185 of the said Act is repealed and the following substituted therefor:

“185. (1) The Minister shall, with all due dispatch, examine each election made

«(2) La corporation qui fait un choix en vertu du paragraphe 83(2), 130.1(4) ou 131(1) relativement au montant total d'un dividende payable par elle sur des actions d'une catégorie de son capital-actions doit payer, à la date du choix, un impôt en vertu de la présente partie égal aux 3/4 de l'excédent éventuel du montant total du dividende sur la partie de celui-ci réputée, selon l'un de ces paragraphes, être un dividende en capital ou un dividende sur les gains en capital, selon le cas.»

(2) Les alinéas 184(3)a) et b) de la même loi sont abrogés et remplacés par ce qui suit :

«a) la partie du montant total du dividende qui dépasse l'excédent est réputée, aux fins du choix que la corporation a fait relativement à ce dividende en vertu du paragraphe 83(1) ou (2), 130.1(4) ou 131(1) et à toutes autres fins prévues par la présente loi, être le montant total d'un dividende distinct qui est devenu payable à la date donnée; b) la partie de l'excédent que peut déduire la corporation est réputée, aux fins d'un choix y relatif en vertu du paragraphe 83(1) ou (2), 130.1(4) ou 131(1) et, en cas d'un tel choix par la corporation, à toutes fins prévues par la présente loi, être le montant total d'un dividende distinct qui est devenu payable immédiatement après la date donnée;»

(3) Le paragraphe (1) s'applique aux dividendes sur les gains en capital versés après le 21 novembre 1985, à l'exclusion des dividendes sur les gains en capital déclarés à cette date ou avant, ainsi qu'aux dividendes en capital d'assurance-vie versés après le 23 mai 1985.

(4) Le paragraphe (2) s'applique aux dividendes versés après le 23 mai 1985.

96. (1) L'article 185 de la même loi est abrogé et remplacé par ce qui suit :

«185. (1) Le ministre doit examiner avec diligence chaque choix que fait une

Impôt sur les
excédents
résultant d'un
choix

Assessment of
tax

Cotisation

Payment of tax and interest

Provisions applicable to Part

by a corporation in accordance with subsection 83(2), 130.1(4) or 131(1), assess the tax, if any, payable under this Part in respect of the election and send a notice of assessment to the corporation.

(2) Where an election has been made by a corporation in accordance with subsection 83(2), 130.1(4) or 131(1) and the Minister mails a notice of assessment under this Part in respect of the election, that part of the amount assessed then remaining unpaid and interest thereon at the prescribed rate computed from the day of the election to the day of payment is payable forthwith by the corporation to the Receiver General.

(3) Subsections 152(3), (4), (5), (7) and (8) and 161(11), sections 163 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”

(2) Subsections 185(1) and (2) of the said Act, as enacted by subsection (1), are applicable with respect to dividends paid after May 23, 1985.

97. (1) Paragraph 186.1(b) of the said Act is repealed and the following substituted therefor:

“(b) that was, throughout the year, a prescribed venture capital corporation, a prescribed labour-sponsored venture capital corporation, a prescribed investment contract corporation, an insurance corporation, a corporation described in paragraph 39(5)(b) or (c) or a non-resident-owned investment corporation.”

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

98. Subsection 187(3) of the said Act is repealed and the following substituted therefor:

“(3) Sections 151, 152, 158 and 159, subsections 161(7) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”

Provisions applicable to Part

corporation conformément au paragraphe 83(2), 130.1(4) ou 131(1), établir en tenant compte de ce choix l'impôt éventuel payable en vertu de la présente partie et 5 envoyer un avis de cotisation à la 5 corporation.

(2) Lorsqu'une corporation fait un choix conformément au paragraphe 83(2), 130.1(4) ou 131(1) et que le ministre poste un avis de cotisation en vertu de la présente partie qui tient compte de ce choix, la corporation doit payer immédiatement au receveur général la partie impayée du montant établi dans l'avis ainsi que les intérêts y afférents calculés au taux prescrit pour la période allant de la date du choix à la date du paiement. 15

(3) Les paragraphes 152(3), (4), (5), (7) et (8) et 161(11), les articles 163 à 167 et la section J de la partie I s'appliquent à 20 la présente partie, avec les adaptations nécessaires.»

(2) Les paragraphes 185(1) et (2) de la même loi, édictés par le paragraphe (1), s'appliquent aux dividendes versés après le 25 23 mai 1985.

97. (1) L'alinéa 186.1b) de la même loi est abrogé et remplacé par ce qui suit :

«b) tout au long de l'année, une corporation à capital de risque prescrite, une corporation à capital de risque prescrite de travailleurs, une corporation de contrats de placements prescrite, une corporation d'assurance, une corporation visée à l'alinéa 39(5)b) ou c) ou une corporation de placement appartenant à des non-résidents.» 35

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

98. Le paragraphe 187(3) de la même loi 40 est abrogé et remplacé par ce qui suit :

«(3) Les articles 151, 152, 158 et 159, les paragraphes 161(7) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.» 45

Paiement de l'impôt et des intérêts

Dispositions applicables

Dispositions applicables

99. Subsection 189(8) of the said Act is repealed and the following substituted therefor:

Provisions
applicable to
Part

“(8) Subsections 150(2) and (3), sections 152 and 158, subsection 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”

100. (1) The said Act is further amended by adding thereto, immediately after section 189 thereof, the following Part:

“PART VI

TAX ON CAPITAL OF FINANCIAL INSTITUTIONS

190. (1) In this Part,

“bank” means a bank to which the *Bank Act* or the *Quebec Savings Banks Act* applies;

“financial institution” means a corporation that

- (a) is a bank,
- (b) is authorized under the laws of Canada or a province to carry on the business of offering its services as a trustee to the public, or
- (c) is authorized under the laws of Canada or a province to accept deposits from the public and carries on the business of lending money on the security of real estate or investing money in mortgages or hypothecs on real estate;

“long-term debt” means

- (a) in the case of a corporation that is a bank, indebtedness evidenced by bank debentures, within the meaning assigned by the *Bank Act* or the *Quebec Savings Banks Act*, and
- (b) in the case of a corporation that is not a bank, subordinate indebtedness evidenced by obligations issued for a term of not less than five years.

Definitions

“bank”
«banque»

“financial
institution”
«institution
financière»

“long-term
debt”
«passif à long
terme»

99. Le paragraphe 189(8) de la même loi est abrogé et remplacé par ce qui suit :

«(8) Les paragraphes 150(2) et (3), les articles 152 et 158, le paragraphe 161(11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.»

100. (1) La même loi est modifiée par insertion, après l'article 189, de ce qui suit :

«PARTIE VI

IMPÔT SUR LE CAPITAL DES INSTITUTIONS FINANCIÈRES

190. (1) Les définitions qui suivent s'appliquent à la présente partie.

«banque» Banque à laquelle la *Loi sur les banques* ou la *Loi sur les banques d'épargne de Québec* s'applique.

«institution financière» L'une des corporations suivantes :

- a) une banque;
- b) une corporation autorisée par la législation fédérale ou provinciale à exploiter une entreprise d'offre au public de services de fiduciaire;
- c) une corporation autorisée par la législation fédérale ou provinciale à accepter du public des dépôts et qui exploite une entreprise soit de prêts d'argent garantis sur des biens immeubles, soit de placements d'argent par *mortgages* ou hypothèques sur des biens immeubles.

«passif à long terme» Passif constitué :

- a) des dettes attestées par les débentures bancaires au sens de la *Loi sur les banques* ou de la *Loi sur les banques d'épargne de Québec*, si la corporation émettrice est une banque;
- b) des dettes subordonnées attestées par les titres de créance émis pour une durée d'au moins cinq ans, si la corporation émettrice n'est pas une banque.

Dispositions
applicables

Définitions et
méthode
comptable

«banque»
“bank”

«institution
financière»
“financial
institution”

«passif à long
terme»
“long term
debt”

Accounting
method

(2) For the purposes of reporting, calculating or determining an amount under this Part on a non-consolidated basis, the equity method of accounting shall not be used.

5

Calculation of Capital Tax

190.1 (1) Every corporation that is a financial institution at any time during a taxation year shall pay a capital tax under this Part for that year.

(2) The capital tax payable under this Part by a corporation for a taxation year is the amount determined by the formula

$$.01 \times A \times \frac{B}{365}$$

where

A is its taxable capital for the year determined under section 190.11; and

B is the number of days in the year that are after 1985 and before 1988 on which it is a financial institution.

Tax (N)
calculated

Taxable capital
(A)

190.11 The taxable capital of a corporation for a taxation year is the amount determined by the formula

$$(C - D) \times \frac{E}{F} - (G + H)$$

where

C is its capital for the immediately preceding taxation year determined under section 190.12;

D is the total of its investments for the year in financial institutions related to it determined under section 190.13;

E is its Canadian assets for the year determined under section 190.14;

F is its total assets for the year determined under section 190.15;

G is its investment allowance for the year determined under section 190.16; and

(2) La méthode de comptabilisation à la valeur de consolidation ne peut être utilisée pour déclarer ou calculer un montant en vertu de la présente partie sur une base non consolidée.

5

Calcul de l'impôt sur le capital

190.1 (1) Toute corporation qui est une institution financière à une date quelconque d'une année d'imposition doit payer pour cette année l'impôt sur le capital prévu par la présente partie.

Paiement d'un
impôt sur le
capital

(2) L'impôt sur le capital payable en vertu de la présente partie par une corporation pour une année d'imposition est calculé selon la formule suivante :

$$0,01 \times A \times \frac{B}{365}$$

où

A représente le capital imposable de la corporation pour cette année, calculé selon l'article 190.11;

B représente le nombre de jours de cette année qui tombent après 1985 et avant 1988 et pendant lesquels la corporation est une institution financière.

190.11 Le capital imposable d'une corporation pour une année d'imposition est calculé selon la formule suivante :

$$(C - D) \times \frac{E}{F} - (G + H)$$

où

C représente le capital de la corporation pour l'année d'imposition précédente, calculé selon l'article 190.12;

D représente le total des placements de la corporation, pour l'année d'imposition, dans des institutions financières liées, calculés selon l'article 190.13;

E représente l'actif canadien de la corporation pour l'année d'imposition, calculé selon l'article 190.14;

F représente l'actif total de la corporation pour l'année d'imposition, calculé selon l'article 190.15;

10

Calcul de
l'impôt (N)

15

25

Capital
imposable (A)

30

35

40

45

H is its capital deduction for the year determined under section 190.17.

G représente la déduction pour placements permise à la corporation pour l'année d'imposition, calculée selon l'article 190.16;

H représente l'abattement de capital de la corporation pour l'année d'imposition, calculé selon l'article 190.17.

Capital (C)

190.12 The capital of a corporation for a taxation year is,

(a) in the case of a corporation that is a bank, the amount, if any, by which the total, computed at the end of the year on a non-consolidated basis, of

(i) the outstanding long-term debt issued by the bank,

(ii) its tax-paid appropriations for contingencies, and

(iii) its capital stock, contributed surplus, general reserve and retained earnings balances that would be shown in its statement of changes in shareholders' equity for the year under paragraph 215(3)(d), and Schedule N to the *Bank Act* or paragraph 53(2)(d) and Schedule D to the *Quebec Savings Banks Act* if that statement were required to be prepared on a non-consolidated basis,

exceeds any debit balance of its tax allowable appropriations for contingencies; and

(b) in the case of a corporation that is not a bank, the total, computed at the end of the year on a non-consolidated basis, of

(i) the outstanding long-term debt issued by the corporation,

(ii) its paid-up capital,

(iii) its retained earnings, contributed surplus and any other surplus, and

(iv) its reserves, other than any reserve of a reasonable amount for deferred income tax or that is permitted to be deducted in computing the income of the corporation.

190.12 Le capital d'une corporation pour une année d'imposition équivaut :

a) si la corporation est une banque, à l'excédent éventuel du total des montants visés aux sous-alinéas (i) à (iii), calculé à la fin de cette année sur une base non consolidée, sur le solde débiteur des provisions pour éventualités déductibles de l'impôt :

(i) la partie non remboursée des dettes du passif à long terme de la banque,

(ii) ses provisions pour éventualités libérées d'impôt,

(iii) son capital-actions, son surplus d'apport, sa réserve générale et ses bénéfices non répartis, qui figurent à l'état des modifications dans l'avoir des actionnaires pour cette année, conformément soit à l'alinéa 215(3)d) et à l'annexe N de la *Loi sur les banques*, soit à l'alinéa 53(2)d) et à l'annexe D de la *Loi sur les banques d'épargne de Québec*, si cet état devait être dressé sur une base non consolidée;

b) si la corporation n'est pas une banque, au total des montants suivants calculé à la fin de cette année sur une base non consolidée :

(i) la partie non remboursée des dettes du passif à long terme de la corporation,

(ii) son capital versé,

(iii) ses bénéfices non répartis, son surplus d'apport et tout autre surplus,

(iv) ses réserves, à l'exception des réserves raisonnables pour impôts sur le revenu reportés et des réserves admises en déduction dans le calcul du revenu de la corporation.

Capital (C)

Investments in related financial institutions	<p>190.13 A corporation's investment for a taxation year in a financial institution related to it is the total of</p> <p>(a) the cost to it, that would be shown on its balance sheet at the end of the immediately preceding taxation year if its balance sheet were prepared on a non-consolidated basis, of</p> <p>(i) any share of the capital stock of the institution, and</p> <p>(ii) any long-term debt of the institution owned by the corporation at the end of that preceding taxation year; and</p> <p>(b) the amount of any surplus of the institution at the end of the immediately preceding taxation year contributed by the corporation, other than any amount included under paragraph (a).</p>	5 10 15	<p>190.13 Le placement d'une corporation, pour une année d'imposition, dans une institution financière liée à cette corporation est calculé par addition :</p> <p>a) du coût, pour la corporation, des titres suivants qui appartiennent à celle-ci à la fin de l'année d'imposition précédente, coût qui figurerait au bilan de la corporation à la fin de cette année précédente si celui-ci était dressé sur une base non consolidée :</p> <p>(i) les actions du capital-actions de cette institution financière,</p> <p>(ii) les titres attestant les dettes du passif à long terme de cette institution financière;</p> <p>b) du montant correspondant aux surplus de cette institution financière à la fin de l'année d'imposition précédente apportés par la corporation, à l'exclusion des montants visés à l'alinéa a).</p>	5 10 15 20	Placements dans des institutions financières liées
Canadian assets of a corporation (E)	<p>190.14 The Canadian assets of a corporation for a taxation year is the amount determined by the formula</p> $I - D$ <p>where</p> <p>I is the total of the amounts at which the assets of the corporation (which are required or, if the corporation were a bank to which the <i>Bank Act</i> applied, would be required to be reported under subsection 223(1) and Schedule Q to the <i>Bank Act</i> if Schedule Q thereof were prepared on a non-consolidated basis) would be shown on its balance sheet at the end of its immediately preceding taxation year if its balance sheet were prepared on a non-consolidated basis; and</p> <p>D is the total of its investments for the year in financial institutions related to it determined under section 190.13.</p>	20	<p>190.14 L'actif canadien d'une corporation pour une année d'imposition est calculé selon la formule suivante :</p> $I - D$ <p>où</p> <p>I représente le total des montants correspondant aux éléments de l'actif de la corporation — que celle-ci est tenue de déclarer conformément au paragraphe 223(1) et à l'annexe Q de la <i>Loi sur les banques</i> ou en serait tenue si elle était une banque à laquelle cette loi s'appliquait, selon l'hypothèse que l'annexe soit sur une base non consolidée — qui figureraient à son bilan à la fin de l'année d'imposition précédente si celui-ci était dressé sur une base non consolidée;</p> <p>D représente le total des placements de la corporation, pour l'année d'imposition, dans des institutions financières liées, calculés selon l'article 190.13.</p>	25	Actif canadien d'une corporation (E)
Total assets of a corporation (F)	<p>190.15 The total assets of a corporation for a taxation year is the amount determined by the formula</p> $J - D$ <p>where</p>	45	<p>190.15 L'actif total d'une corporation pour une année d'imposition est calculé selon la formule suivante :</p> $J - D$ <p>où</p>	45	Actif total d'une corporation (F)

J is the total of the amounts at which the assets of the corporation would be shown on its balance sheet at the end of its immediately preceding taxation year if its balance sheet were prepared on a non-consolidated basis; and 5

D is the total of its investments for the year in financial institutions related to it determined under section 190.13. 10

Investment
allowance (G)

190.16 The investment allowance of a corporation for a taxation year is the amount determined by the formula

$$(C - D) \times \frac{K}{F} \quad 15$$

where

C is its capital for the immediately preceding taxation year determined under section 190.12; 20

D is the total of its investments for the year in financial institutions related to it determined under section 190.13;

K is the cost to it, that would be shown 25 on its balance sheet at the end of its immediately preceding taxation year if its balance sheet were prepared on a non-consolidated basis, of shares of the capital stock of other corporations resident in Canada (other than financial institutions related to it at the end of that preceding taxation year) not less than 20% of the issued share capital (having full voting 35 rights under all circumstances) of which is owned by it at the end of that preceding taxation year; and

F is its total assets for the year determined under section 190.15. 40

Capital
deduction (H)

190.17 (1) Subject to subsection (4), the capital deduction of a corporation for a taxation year during which it was at any time a financial institution is \$300,000,000, unless the corporation was 45 related to another financial institution at

J représente le total des montants correspondant aux éléments de l'actif de la corporation et qui figureraient à son bilan à la fin de l'année d'imposition précédente si celui-ci était dressé 5 sur une base non consolidée;

D représente le total des placements de la corporation, pour l'année d'imposition, dans des institutions financières liées, calculés selon l'article 190.13. 10

Déduction pour
placements (G)

190.16 La déduction pour placements permise à une corporation pour une année d'imposition est calculée selon la formule suivante :

$$(C - D) \times \frac{K}{F} \quad 15$$

où

C représente le capital de la corporation pour l'année d'imposition précédente, calculé selon l'article 190.12; 20

D représente le total des placements de la corporation, pour l'année d'imposition, dans des institutions financières liées, calculés selon l'article 190.13;

K représente le coût, pour la corpora- 25 tion, qui figurerait à son bilan à la fin de l'année d'imposition précédente si celui-ci était dressé sur une base non consolidée, des actions du capital-actions d'autres corporations résidant 30 au Canada — à l'exclusion des institutions financières liées à la corporation à la fin de cette année précédente — dont au moins 20 % des actions émises — avec plein droit de 35 vote en toutes circonstances — appartiennent à la corporation à la fin de cette année précédente.

F représente l'actif total de la corporation pour l'année d'imposition, calculé 40 selon l'article 190.15;

Abattement de
capital (H)

190.17 (1) Sous réserve du paragraphe (4), l'abattement de capital d'une corporation est de 300 000 000 \$ pour toute année d'imposition au cours de laquelle la corpo- 45 ration est, à une date quelconque, une institution financière, sauf si la corpora-

the end of the immediately preceding taxation year.

Capital deduction (H) of related group

(2) A corporation that is a financial institution at any time during a taxation year and that was related to another financial institution at the end of the immediately preceding taxation year may file with the Minister in prescribed form an agreement on behalf of the related group of which it is a member under which an amount that does not exceed \$300,000,000 is allocated among the members of the related group for the taxation year.

Allocation of capital deduction by Minister

(3) The Minister may request a corporation that is a financial institution at any time during a taxation year and that was related to any other financial institution at the end of the immediately preceding taxation year to file with him an agreement referred to in subsection (2) and if the corporation does not file such an agreement within 30 days after receiving the request, the Minister shall allocate an amount not exceeding \$300,000,000 among the members of the related group for the taxation year.

Capital deduction of related corporation

(4) The amount allocated for a taxation year to each member of a related group under an agreement described in subsection (2) or by the Minister pursuant to subsection (3) is the capital deduction for the taxation year of that member but, if no such allocation is made, the capital deduction of each member of the related group for that year is nil.

Special Rules

Calculations for new corporations

190.18 (1) For the purposes of calculating the capital tax payable under this Part by a corporation (other than a corporation formed as a result of an amalgamation within the meaning assigned by section 87) for its first taxation year, any determination or calculation required to be made under this Part by reference to the corporation's immediately preceding taxation year shall be made by reference to the first taxation year of that corporation.

tion est liée à une ou plusieurs autres institutions financières à la fin de l'année d'imposition précédente.

Abattement de capital (H) d'un groupe lié

(2) La corporation qui est une institution financière à une date quelconque d'une année d'imposition et qui, à la fin de l'année d'imposition précédente, est liée à une ou plusieurs autres institutions financières peut produire auprès du ministre, selon le formulaire prescrit, un accord au nom du groupe lié dont elle est membre, qui prévoit la répartition, pour l'année d'imposition, d'un montant maximal de 300 000 000 \$ entre les membres du groupe lié.

Répartition de l'abattement de capital par le ministre

(3) Le ministre peut demander à la corporation qui est une institution financière à une date quelconque d'une année d'imposition et qui est liée à une ou plusieurs autres institutions financières à la fin de l'année d'imposition précédente de lui produire l'accord visé au paragraphe (2); si la corporation n'en produit pas un dans les 30 jours suivant la réception de cette demande, le ministre doit répartir, pour l'année d'imposition, le montant maximal de 300 000 000 \$ entre les membres du groupe lié.

Abattement de capital d'une corporation liée

(4) Le montant attribué, pour une année d'imposition, à chaque membre d'un groupe lié selon l'accord visé au paragraphe (2) ou par le ministre conformément au paragraphe (3) représente l'abattement de capital du membre concerné pour cette année; si aucune répartition n'est faite, l'abattement de capital de chaque membre du groupe lié est nul pour cette année.

Règles particulières

Calcul de l'impôt payable par les nouvelles corporations

190.18 (1) Aux fins du calcul de l'impôt sur le capital payable en vertu de la présente partie par une corporation — à l'exception d'une corporation issue d'une fusion au sens de l'article 87 — pour sa première année d'imposition, tout calcul, à effectuer selon la présente partie en fonction de l'année d'imposition précédente de la corporation, doit être effectué pour la première année d'imposition de cette corporation.

Amalgamations

(2) Subject to subsection (3), for the purposes of calculating the capital tax payable under this Part by a new corporation formed as a result of an amalgamation within the meaning assigned by section 87, 5 the new corporation shall be deemed to be the same corporation as and a continuation of each predecessor corporation.

Fiscal periods of new corporation

(3) Subsection (2) does not affect the determination of the fiscal period of the 10 new corporation or its predecessor corporations for the purposes of determining the taxation year of the corporation under subsection 249(1).

Artificial reduction of capital tax

190.19 Where it may reasonably be 15 considered that one of the main purposes of a transaction or series of transactions is to reduce unduly or artificially the capital tax payable under this Part by a corporation, the tax payable under this Part by the 20 corporation shall be calculated without reference to that transaction or series of transactions.

Administrative Provisions

Return

190.2 A corporation liable to pay a capital tax under this Part for a taxation 25 year shall file with the Minister, not later than the day on or before which the corporation is required by section 150 to file its return of income for the year under Part I, a return of capital for that year in pre- 30 scribed form containing an estimate of the capital tax payable by it for the year.

Instalments

190.21 A corporation liable to pay capital tax under this Part for a taxation year shall pay to the Receiver General on or 35 before the last day of each three month period, if any, in the year an instalment determined by the formula

$$\frac{L}{M} \times N$$

where

L is the number of months in the taxation year that end after 1985, before

40

(2) Sous réserve du paragraphe (3), aux fins du calcul de l'impôt sur le capital payable en vertu de la présente partie par une nouvelle corporation issue d'une fusion au sens de l'article 87, la nouvelle corpora- 5 tion est réputée être la même corporation que chaque corporation remplacée et en être la continuation.

Fusions

(3) Le paragraphe (2) n'influe pas sur la détermination de l'exercice financier de la 10 nouvelle corporation ou des corporations remplacées, aux fins de déterminer leur année d'imposition en vertu du paragraphe 249(1).

Exercices financiers des nouvelles corporations

190.19 L'impôt sur le capital payable 15 en vertu de la présente partie par une corporation doit être calculé sans tenir compte de toute opération ou série d'opérations dont il est raisonnable de considérer qu'un des principaux objets consiste à 20 réduire cet impôt de manière indue ou factice.

Réduction factice de l'impôt sur le capital

Dispositions d'ordre administratif

190.2 La corporation qui est redevable de l'impôt sur le capital prévu par la présente partie pour une année d'imposition 25 doit produire auprès du ministre une déclaration de capital pour cette année, au plus tard le jour où l'article 150 prévoit qu'elle doit, au plus tard, produire sa déclaration de revenu pour l'année en 30 vertu de la partie I. La déclaration de capital doit être produite selon le formulaire prescrit et contenir une estimation de l'impôt sur le capital payable par la corporation pour l'année. 35

Déclaration de capital

190.21 La corporation qui est redevable de l'impôt sur le capital prévu par la présente partie pour une année d'imposition doit payer au receveur général, au plus tard le dernier jour de chaque trimestre 40 que peut avoir l'année d'imposition, un acompte provisionnel calculé selon la formule suivante :

Acomptes provisionnels

$$\frac{L}{M} \times N$$

où

45

	1988 and within the three month period;		L représente le nombre de mois de l'année d'imposition qui se terminent au cours du trimestre, après 1985 et avant 1988;	
	M is the number of months in the taxation year that end after 1985 and before 1988; and	5	M représente le nombre de mois de l'année d'imposition qui se terminent après 1985 et avant 1988;	5
	N is the capital tax payable under this Part by it for the year.		N représente l'impôt sur le capital payable en vertu de la présente partie par la corporation pour l'année.	10
Payment of remainder of tax	190.22 A corporation shall pay on or before the last day of the second month ending after the end of a taxation year, the remainder, if any, of the capital tax payable under this Part by the corporation for the year.	10	190.22 Chaque corporation doit payer, au plus tard le dernier jour du deuxième mois se terminant après la fin d'une année d'imposition, le solde éventuel de l'impôt sur le capital payable par elle en vertu de la présente partie pour cette année.	15
Interest	190.23 Where a corporation is liable to pay capital tax under this Part and has failed to pay all or any part or instalment thereof on or before the day on or before which the tax or instalment, as the case may be, was required to be paid, it shall pay to the Receiver General interest at the rate prescribed for the purposes of section 161 on the amount that it failed to pay computed from the day on or before which the amount was required to be paid to the day of payment.	25	190.23 La corporation qui est redevable de l'impôt sur le capital prévu par la présente partie et qui ne le paie pas ou n'en paye pas une partie ou un acompte au plus tard le jour où elle est tenue de payer cet impôt, cette partie ou cet acompte doit payer au receveur général, sur le montant impayé, des intérêts calculés au taux prescrit, en application de l'article 161, pour la période allant de la date où elle était, au plus tard, tenue de payer ce montant jusqu'à la date du paiement.	25
Provisions applicable to Part	190.24 Sections 152, 158 and 159, subsection 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require."	30	190.24 Les articles 152, 158 et 159, le paragraphe 161(11) et les articles 162 à 167, ainsi que la section J de la partie I, s'appliquent à la présente partie, avec les adaptations nécessaires."	30
	(2) Part VI of the said Act, as enacted by subsection (1), applies after May 23, 1985 except that a return of capital under the Part is not required to be filed until 30 days after the day this Act is assented to.	35	(2) La partie VI de la même loi, édictée par le paragraphe (1), s'applique après le 23 mai 1985; toutefois, nul n'est tenu de produire une déclaration de capital en vertu de cette partie avant le 30 ^e jour qui suit la date de sanction de la présente loi.	35
	101. (1) All that portion of subsection 192(4) of the said Act preceding paragraph (a) thereof is revoked and the following substituted therefor:		101. (1) Le passage du paragraphe 192(4) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :	40
Corp. may designate amount	"(4) Every taxable Canadian corporation may, by filing a prescribed form with the Minister at any time on or before the last day of the month immediately following the month in which it issued a qualifying share of its capital stock (other than a	45	"(4) Toute corporation canadienne imposable peut, en produisant un formulaire prescrit auprès du ministre au plus tard le dernier jour du mois qui suit le mois de l'émission d'une action admissible de son capital-actions (à l'exclusion d'une	45
				Montant désigné par une corporation

share issued before July 1983 or after 1986, or a share in respect of which the corporation has, on or before that day, designated an amount under subsection 194(4)), designate, for the purposes of this Part and Part I, an amount in respect of that share not exceeding 25% of the amount by which”

(2) Section 192 of the said Act is further amended by adding thereto, immediately after subsection (4) thereof, the following subsection:

“(4.1) Where a corporation has designated an amount under subsection (4) in respect of shares issued at any time after May 23, 1985, in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of the capital stock of the corporation that includes those shares

(a) there shall be deducted the amount, if any, by which

(i) the increase as a result of the issue of those shares in the paid-up capital in respect of all shares of that class, determined without reference to this subsection as it applies to those shares,

exceeds

(ii) the amount, if any, by which the total amount of consideration for which those shares were issued exceeds the total amount designated by the corporation under subsection (4) in respect of those shares; and

(b) there shall be added an amount equal to the lesser of

(i) the amount, if any, by which

(A) the aggregate of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the corporation after May 23, 1985 and before the particular time

exceeds

(B) the aggregate that would be determined under clause (A) if this Act were read without reference to paragraph (a), and

action émise avant juillet 1983 ou après 1986 et d'une action à l'égard de laquelle la corporation a désigné, au plus tard ce jour-là, un montant en vertu du paragraphe 194(4)), désigner, pour l'application de la présente partie et de la partie I, un montant à l'égard de cette action qui ne dépasse pas 25 % de l'excédent de

(2) L'article 192 de la même loi est modifié par insertion, après le paragraphe (4), de ce qui suit :

«(4.1) Lorsqu'une corporation a désigné un montant en vertu du paragraphe (4) à l'égard d'actions émises à une date quelconque postérieure au 23 mai 1985, dans le calcul, à une date donnée postérieure à cette date quelconque, du capital versé au titre de la catégorie d'actions du capital-actions de la corporation qui comprend ces actions,

a) d'une part, doit être déduit l'excédent éventuel

(i) du montant correspondant à l'augmentation — conséquence de l'émission de ces actions — du capital versé au titre de toutes les actions de la catégorie, calculée sans appliquer le présent paragraphe aux actions,

sur

(ii) l'excédent éventuel du montant total correspondant à la contrepartie de l'émission des actions sur le montant total que la corporation a désigné en vertu du paragraphe (4) à l'égard des actions;

b) d'autre part, doit être ajouté le moindre :

(i) de l'excédent éventuel

(A) du total des montants dont chacun représente un montant réputé, selon le paragraphe 84(3), (4) ou (4.1), être un dividende sur des actions de cette catégorie versé par la corporation après le 23 mai 1985 et avant la date donnée

sur

(B) le total calculé selon la division (A), abstraction faite de l'alinéa a),

Computing
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after designa-
tion

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capital versé
après désigna-
tion

(ii) the aggregate of all amounts each of which is an amount required by paragraph (a) to be deducted in computing the paid-up capital in respect of that class of shares after May 23, 1985 and before the particular time.” 5

(3) Subsections 192(6) and (7) of the said Act are repealed and the following substituted therefor:

“(6) For the purposes of this Act, 10
“qualifying share”, at any time, means a prescribed share of the capital stock of a taxable Canadian corporation issued after May 22, 1985 and before 1987.

“Qualifying share” defined

(7) When determining under section 15 251 whether a corporation and any other person do not deal with each other at arm’s length for the purposes of any regulations made for the purposes of subsection (6), a person who has an obligation in 20 equity, under a contract or otherwise, either immediately or in the future and either absolutely or contingently, to acquire shares in a corporation, shall be deemed to be in the same position in rela- 25 tion to the control of the corporation as if he owned the shares.”

Effect of obligation to acquire shares

(4) Subsections (1) and (3) are applicable in respect of shares of a corporation issued after May 22, 1985, other than shares issued 30 before 1986

(a) under the terms of an agreement in writing entered into by the corporation before May 23, 1985; or

(b) as part of a lawful distribution to the 35 public in accordance with a prospectus, preliminary prospectus or registration statement filed before May 24, 1985 with a public authority in Canada pursuant to and in accordance with the securities legis- 40 lation of Canada or of any province and, where required by law, accepted for filing by such public authority.

(5) Subsection (2) is applicable after May 23, 1985.

102. Subsection 193(8) of the said Act is repealed and the following substituted therefor:

(ii) du total des montants dont chacun représente un montant à déduire selon l’alinéa a) dans le calcul du capital versé au titre de cette catégorie d’actions après le 23 mai 1985 5 et avant la date donnée.»

(3) Les paragraphes 192(6) et (7) de la même loi sont abrogés et remplacés par ce qui suit :

«(6) Pour l’application de la présente 10 loi, «action admissible», à une date quelconque, s’entend d’une action prescrite du capital-actions d’une corporation canadienne imposable, émise après le 22 mai 1985 et avant 1987. 15

Définition d’action admissible.

(7) Pour établir en vertu de l’article 251 si une corporation et une autre personne ont un lien de dépendance aux fins des règlements pris en application du paragraphe (6), la personne qui a une obligation 20 contractuelle, en *equity* ou autre — immédiate ou future, conditionnelle ou non — d’acquérir des actions d’une corporation, est réputée être dans la même position quant au contrôle de la corporation que si 25 les actions lui appartenaient.»

Effet d’une obligation à acquérir des actions

(4) Les paragraphes (1) et (3) s’appliquent aux actions d’une corporation, émises après le 22 mai 1985, à l’exclusion des actions émises avant 1986 30

a) soit aux termes d’un accord écrit conclu par la corporation avant le 23 mai 1985;

b) soit dans le cadre d’un appel public légal à l’épargne conforme à un prospec- 35 tus, un prospectus préliminaire ou une déclaration d’enregistrement, produit avant le 24 mai 1985 auprès d’un organisme public du Canada suivant la législation fédérale ou provinciale sur les valeurs 40 mobilières et, si la loi le prévoit, approuvé par un tel organisme public.

(5) Le paragraphe (2) s’applique après le 45 23 mai 1985.

102. Le paragraphe 193(8) de la même loi 45 est abrogé et remplacé par ce qui suit :

Provisions
applicable to
Part

“(8) Sections 151, 152, 158 and 159, subsection 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”

5

103. (1) Section 194 of the said Act is amended by adding thereto, immediately after subsection (4) thereof, the following subsections:

Computing
paid-up capital
after designa-
tion

“(4.1) Where a corporation has designated an amount under subsection (4) in respect of shares issued at any time after May 23, 1985, in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of 15 the capital stock of the corporation that includes those shares

(a) there shall be deducted the amount, if any, by which

(i) the increase as a result of the issue 20 of those shares in the paid-up capital in respect of all shares of that class, determined without reference to this subsection as it applies to those shares,

25

exceeds

(ii) the amount, if any, by which the total amount of consideration for which those shares were issued exceeds 50% of the amount designated by the corporation under subsection (4) in respect of those shares; and

(b) there shall be added an amount equal to the lesser of

35

(i) the amount, if any, by which

(A) the aggregate of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class 40 paid by the corporation after May 23, 1985 and before the particular time

exceeds

(B) the aggregate that would be 45 determined under clause (A) if this Act were read without reference to paragraph (a), and

(ii) the aggregate of all amounts each of which is an amount required by 50

«(8) Les articles 151, 152, 158 et 159, le paragraphe 161(11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.»

5

103. (1) L'article 194 de la même loi est modifié, par insertion après le paragraphe (4), de ce qui suit :

Dispositions
applicables

«(4.1) Lorsqu'une corporation a désigné un montant en vertu du paragraphe (4) à l'égard d'actions émises à une date quelconque postérieure au 23 mai 1985, dans le calcul, à une date donnée postérieure à cette date quelconque, du capital versé au titre de la catégorie d'actions du capital- 15 actions de la corporation qui comprend ces actions,

Calcul du
capital versé
après désigna-
tion

a) d'une part, doit être déduit l'excédent éventuel

(i) du montant correspondant à l'aug- 20 mentation — conséquence de l'émission de ces actions — du capital versé au titre de toutes les actions de la catégorie, calculée sans appliquer le présent paragraphe aux actions,

25

sur

(ii) l'excédent éventuel du montant total correspondant à la contrepartie de l'émission des actions sur la moitié du montant que la corporation a désigné en vertu du paragraphe (4) à l'égard des actions;

b) d'autre part, doit être ajouté le moindre :

(i) de l'excédent éventuel

35

(A) du total des montants dont chacun représente un montant réputé, selon le paragraphe 84(3), (4) ou (4.1), être un dividende sur des actions de cette catégorie versé 40 par la corporation après le 23 mai 1985 et avant la date donnée

sur

(B) le total calculé selon la division (A), abstraction faite de l'ali- 45 néa a),

(ii) du total des montants dont chacun représente un montant à déduire selon l'alinéa a) dans le calcul

Where amount
may not be
designated

paragraph (a) to be deducted in computing the paid-up capital in respect of that class of shares after May 23, 1985 and before the particular time.

(4.2) Notwithstanding subsection (4), 5
no amount may be designated by a corporation in respect of

(a) a share issued by the corporation after October 10, 1984, other than

(i) a qualifying share issued before 10
May 23, 1985, or

(ii) a qualifying share issued after
May 22, 1985 and before 1986

(A) under the terms of an agree-
ment in writing entered into by the 15
corporation before May 23, 1985,
other than pursuant to an option to
acquire the share if the option was
not exercised before May 23, 1985,
or 20

(B) as part of a lawful distribution
to the public in accordance with a
prospectus, preliminary prospectus
or registration statement filed
before May 24, 1985 with a public 25
authority in Canada pursuant to
and in accordance with the securi-
ties legislation of Canada or of any
province and, where required by
law, accepted for filing by such 30
public authority;

(b) a share or debt obligation issued or
a right granted by the corporation after
October 10, 1984, other than a share or
debt obligation issued or a right granted 35
before 1986

(i) under the terms of an agreement
in writing entered into by the corpora-
tion before October 11, 1984, other
than pursuant to an option to acquire 40
the share, debt obligation or right if
the option was not exercised before
October 11, 1984, or

(ii) where arrangements, evidenced in
writing, for the issue of the share or 45
debt obligation or the granting of the
right were substantially advanced
before October 10, 1984; or

(c) a share or debt obligation issued, or
a right granted, at any time after June 50

du capital versé au titre de cette caté-
gorie d'actions après le 23 mai 1985
et avant la date donnée.

«(4.2) Par dérogation au paragraphe 5
(4), aucun montant ne peut être désigné
par une corporation Désignation
exclue

a) au titre d'une action que la corpora-
tion émet après le 10 octobre 1984, à
l'exclusion d'une action admissible

(i) émise avant le 23 mai 1985, ou 10

(ii) émise après le 22 mai 1985 et
avant 1986

(A) soit aux termes d'un accord
écrit conclu par la corporation
avant le 23 mai 1985, autrement 15
que conformément à une option
d'achat de l'action si cette option
n'a pas été levée avant le 23 mai
1985,

(B) soit dans le cadre d'un appel 20
public légal à l'épargne conforme à
un prospectus, à un prospectus pré-
liminaire ou à une déclaration d'en-
registrement, produit avant le 24
mai 1985 auprès d'un organisme 25
public du Canada conformément à
la législation fédérale ou provin-
ciale sur les valeurs mobilières et, si
la loi le prévoit, approuvé par un tel
organisme public; 30

b) au titre d'une action ou créance
émise par la corporation après le 10
octobre 1984 ou d'un droit consenti par
la corporation après cette date, à l'ex-
clusion d'une action ou créance émise 35
avant 1986 ou d'un droit consenti avant
1986

(i) soit aux termes d'un accord écrit
conclu par la corporation avant le 11
octobre 1984, autrement que confor- 40
mément à une option d'achat de l'ac-
tion, de la créance ou du droit si cette
option n'a pas été levée avant le 11
octobre 1984,

(ii) soit conformément à des arrange- 45
ments écrits sur le point d'aboutir
avant le 10 octobre 1984 concernant
l'émission de l'action ou de la créance
ou l'octroi du droit; ou

15, 1984, by a corporation that was an excluded corporation (within the meaning assigned by subsection 127.1(2)) at that time.”

c) au titre d'une action ou créance émise ou d'un droit consenti à une date postérieure au 15 juin 1984, par une corporation qui est une corporation exclue (au sens du paragraphe 127.1(2)) 5 à cette date.»

(2) Subsection 194(4.1) of the said Act, as enacted by subsection (1), is applicable after May 23, 1985.

5 (2) Le paragraphe 194(4.1) de la même loi, édicté par le paragraphe (1), s'applique après le 23 mai 1985.

104. Subsection 195(8) of the said Act is repealed and the following substituted therefor:

104. Le paragraphe 195(8) de la même loi 10 est abrogé et remplacé par ce qui suit :

Provisions
applicable to
Part

“(8) Sections 151, 152, 158 and 159, subsection 161(11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”

“(8) Les articles 151, 152, 158 et 159, le 15 paragraphe 161(11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations 15 nécessaires.»

Dispositions
applicables

105. Subsection 202(3) of the said Act is repealed and the following substituted therefor:

105. Le paragraphe 202(3) de la même loi est abrogé et remplacé par ce qui suit :

Provisions
applicable to
Part

“(3) Subsection 150(2), sections 152 and 158, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require and, for the purposes of the application of those provisions to this Part, a notice of 25 refund under this section shall be deemed to be a notice of assessment.”

“(3) Le paragraphe 150(2), les articles 152 et 158, les paragraphes 161(1) et (11), 20 les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires; pour l'application de ces dispositions à la présente 25 partie, un avis de remboursement en vertu du présent article est réputé être un avis de cotisation.»

Dispositions
applicables

106. Subsection 204.3(2) of the said Act is repealed and the following substituted therefor:

106. Le paragraphe 204.3(2) de la même loi est abrogé et remplacé par ce qui suit :

Provisions
applicable to
Part

“(2) Subsections 150(2) and (3), sections 152 and 158, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances 35 require.”

“(2) Les paragraphes 150(2) et (3), les 30 articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente 35 partie, avec les adaptations nécessaires.»

Dispositions
applicables

107. (1) Paragraph 204.4(1)(b) of the said Act is repealed.

107. (1) L'alinéa 204.4(1)b) de la même loi est abrogé.

(2) Clause 204.4(2)(a)(i)(B) of the said Act is repealed and the following substituted therefor:

(2) La division 204.4(2)a)(i)(B) de la même loi est abrogée et remplacée par ce qui suit :

“(B) not less than 100 beneficiaries are taxpayers described in paragraph 205(b) or (e),”

“(B) au moins 100 bénéficiaires 40 sont des contribuables visés à l'alinéa 205b) ou e),”

(3) Subparagraph 204.4(2)(a)(vii) of the said Act is repealed and the following substituted therefor:

“(vii) the aggregate value of all interests in the applicant owned by all trusts described in paragraph 205(b) or (e) to which any one taxpayer, either alone or together with persons with whom he was not dealing at arm’s length, has made contributions does not exceed 25% of the value of all its property, and”

(4) Clause 204.4(2)(a)(viii)(A) of the said Act is repealed and the following substituted therefor:

“(A) a mortgage (other than a mortgage insured under the *National Housing Act*), or an interest therein, in respect of which the mortgagor is the annuitant under a registered retirement savings plan or a registered retirement income fund, or a person with whom the annuitant is not dealing at arm’s length, if any of the funds of a trust governed by such a plan or fund have been used to acquire an interest in the applicant, or”

(5) Subsections (1) to (4) are applicable to the 1986 and subsequent taxation years.

108. Subsection 204.7(3) of the said Act is repealed and the following substituted therefor:

“(3) Subsections 150(2) and (3), sections 152 and 158, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.”

109. (1) Paragraph 205(d) of the said Act is repealed.

(2) Subsection (1) is applicable to months ending after 1985.

(3) Le sous-alinéa 204.4(2)a)(vii) de la même loi est abrogé et remplacé par ce qui suit :

«(vii) la valeur totale de toutes les participations dans la requérante qui appartiennent à toutes les fiducies visées à l’alinéa 205b) ou e) auxquelles tout contribuable, soit seul, soit avec des personnes avec lesquelles il avait un lien de dépendance, a versé des contributions, n’est pas supérieure à 25 % de la valeur de tous ses biens, et»

(4) La division 204.4(2)a)(viii)(A) de la même loi est abrogée et remplacée par ce qui suit :

«(A) une hypothèque ou un *mortgage* (à l’exclusion d’une hypothèque garantie en vertu de la *Loi nationale sur l’habitation*) ou un droit dans une hypothèque ou un *mortgage*, dont le débiteur hypothécaire est soit le rentier d’un régime enregistré d’épargne-retraite ou d’un fonds enregistré de revenu de retraite, soit une personne avec qui le rentier a un lien de dépendance, si des fonds d’une fiducie régie par un tel régime ou fonds ont été utilisés pour l’acquisition d’une participation dans la requérante, ou»

(5) Les paragraphes (1) à (4) s’appliquent aux années d’imposition 1986 et suivantes.

108. Le paragraphe 204.7(3) de la même loi est abrogé et remplacé par ce qui suit :

«(3) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s’appliquent à la présente partie, avec les adaptations nécessaires.»

109. (1) L’alinéa 205d) de la même loi est abrogé.

(2) Le paragraphe (1) s’applique aux mois se terminant après 1985.

Dispositions applicables

110. (1) Section 206 of the said Act is repealed and the following substituted therefor:

Definitions

"foreign property"
«bien étranger»

"206. (1) In this Part,

"foreign property" means

- (a) tangible property situated outside Canada except automotive equipment registered in Canada,
- (b) automotive equipment not registered in Canada pursuant to the laws of Canada or a province,
- (c) intangible property (other than any property described in paragraphs (d) to (g)) situated outside Canada including, without restricting the generality of the foregoing, any patent under the laws of a country other than Canada and any licence in respect thereof,
- (d) any share of the capital stock of a corporation other than a Canadian corporation,
- (e) any share of the capital stock of a mutual fund corporation that is neither an investment corporation nor a registered investment, except as prescribed by regulation,
- (f) any property that, under the terms or conditions thereof or any agreement relating thereto, is convertible into, is exchangeable for or confers a right to acquire, property that is foreign property, but not including property that is
 - (i) a share of the capital stock of a Canadian corporation listed on a prescribed stock exchange in Canada, or
 - (ii) a right issued before 1984 and listed on a prescribed stock exchange in Canada to acquire a share of the capital stock of a Canadian corporation,
- (g) any bond, debenture, mortgage, hypothec, note or similar obligation of, or issued by, a person not resident in Canada, except any such bond, debenture, mortgage, hypothec, note or similar obligation issued or guaranteed by

110. (1) L'article 206 de la même loi est abrogé et remplacé par ce qui suit :

Définitions

«206. (1) Les définitions qui suivent s'appliquent à la présente partie.

«bien de petite entreprise» Bien qu'un contribuable est la première personne à acquérir — à l'exception d'un courtier en valeurs —, qu'il acquiert à une date postérieure au 31 octobre 1985, qui lui appartient depuis sans interruption et qui est à cette date :

- a) un bien qui est, par règlement, un titre de petite entreprise;
- b) une action d'une catégorie du capital-actions d'une corporation qui est, par règlement, une corporation de placement dans des petites entreprises;
- c) un intérêt d'un commanditaire dans une société qui est, par règlement, une société en commandite de placement dans des petites entreprises;
- d) une participation dans une fiducie qui est, par règlement, une fiducie de placement dans des petites entreprises.

«bien étranger»

- a) Bien corporel situé hors du Canada, sauf le matériel automobile immatriculé au Canada;
- b) matériel automobile non immatriculé au Canada conformément à la législation fédérale ou d'une province;
- c) bien incorporel — à l'exception d'un bien visé aux alinéas d) à g) — situé hors du Canada, y compris, sans que soit limitée la portée générale de ce qui précède, un brevet délivré en vertu de la législation d'un autre pays que le Canada et une licence y afférente;
- d) action du capital-actions d'une corporation qui n'est pas une corporation canadienne;
- e) action du capital-actions d'une corporation de fonds mutuels qui n'est ni une corporation de placement ni un placement enregistré, sauf règlement contraire;

5 «bien de petite entreprise»
"small business property"

«bien étrangers»
"foreign property"

	<p>(i) the International Bank for Reconstruction and Development,</p> <p>(ii) the Inter-American Development Bank,</p> <p>(iii) the Asian Development Bank, 5</p> <p>(iv) the Caribbean Development Bank, or</p> <p>(v) a prescribed person,</p> <p>(h) any interest in or right to any property that is foreign property by 10 virtue of paragraphs (a) to (g), and</p> <p>(i) except as prescribed by regulation, any interest in, or right to acquire an interest in, a trust (other than a registered investment) or a 15 partnership;</p>	<p>f) bien qui, en vertu de ses conditions ou d'un accord relatif à ce bien, est convertible en un bien qui est un bien étranger ou échangeable contre un tel bien, ou confère le droit d'acquérir un 5 tel bien, à l'exclusion d'un bien qui est :</p> <p>(i) soit une action du capital-actions d'une corporation canadienne cotée à une bourse de 10 valeurs prescrite au Canada,</p> <p>(ii) soit un droit d'acquérir une action du capital-actions d'une corporation canadienne, émis avant 1984 et coté à une bourse de 15 valeurs prescrite au Canada;</p> <p>g) obligation, <i>mortgage</i>, hypothèque, billet ou titre semblable appartenant à une personne ne résidant pas au Canada ou émis par une telle per- 20 sonne, à l'exclusion de quelque obligation, <i>mortgage</i>, hypothèque, billet ou titre semblable émis ou garanti par :</p> <p>(i) la Banque internationale pour la reconstruction et le développement, 25</p> <p>(ii) la Banque interaméricaine de développement,</p> <p>(iii) la Banque de développement asiatique,</p> <p>(iv) la Banque de développement 30 des Caraïbes, ou</p> <p>(v) une personne prescrite;</p> <p>h) droit afférent à un bien qui est un bien étranger selon les alinéas a) à g);</p> <p>i) participation dans une fiducie — à 35 l'exception d'un placement enregistré — ou dans une société, ou droit d'acquérir une telle participation, sauf règlement contraire.</p>
<p>"small business investment amount" «montant...»</p>	<p>"small business investment amount" of a taxpayer for a month means the quotient obtained when the aggregate of all amounts determined for each of the 20 three preceding months, each of which is the aggregate of the fair market values, at the time of acquisition, of all small business properties of the taxpayer at the end of that preceding month, is 25 divided by three;</p>	
<p>"small business property" «bien de petite entreprise»</p>	<p>"small business property" of a taxpayer at a particular time means property acquired by the taxpayer after October 31, 1985 that is at that particular time 30</p> <p>(a) a property prescribed to be a small business security,</p> <p>(b) a share of a class of the capital stock of a corporation prescribed to be a small business investment corpora- 35 tion,</p> <p>(c) an interest of a limited partner in a partnership prescribed to be a small business investment limited partnership, or 40</p> <p>(d) an interest in a trust prescribed to be a small business investment trust,</p> <p>where the taxpayer is the first person (other than a broker or dealer in securities) to have acquired the property and 45 the taxpayer has owned the property continuously since it was so acquired.</p>	<p>«montant d'un placement dans des petites entreprises» Montant d'un contribuable pour un mois qui correspond au quotient obtenu en divisant par trois le total des montants, calculés pour chacun des trois mois précédents, dont chacun représente 45 le total des justes valeurs marchandes, à la date de leur acquisition, de tous les biens de petite entreprise du contribuable à la fin de ce mois précédent.</p>
Tax payable	(2) Where at the end of any month	(2) Lorsque, à la fin d'un mois 50 Impôt payable quelconque,

(a) the aggregate of all amounts each of which is the fair market value, at the time of its acquisition by a taxpayer described in any of paragraphs 205(a) to (f), of a foreign property of the taxpayer, other than, where the taxpayer is described in any of paragraphs 205(b) to (e), a foreign property that was not at the end of the month a qualified investment of the taxpayer (within the meaning assigned by paragraph 204(e), subsection 146(1), 146.2(1) or 146.3(1), as the case may be)

exceeds the aggregate of

(b) 10% of the aggregate of all amounts each of which is the fair market value, at the time of its acquisition, of a property of the taxpayer, and

(c) in the case of a taxpayer described in paragraph 205(a), (b), (c) or (e), other than a taxpayer described in paragraph 149(1)(o.2), the lesser of

(i) three times the small business investment amount of the taxpayer for the month, and

(ii) two times the amount determined under paragraph (b),

the taxpayer shall, in respect of that month, pay a tax under this Part equal to 1% of the lesser of such excess and the aggregate of all amounts each of which is the fair market value, at the time of its acquisition, of each of its foreign properties that was acquired by it after June 18, 1971.

(3) Notwithstanding the definition of foreign property in subsection (1), a share of the capital stock of an investment corporation (other than a registered investment) acquired after October 13, 1971 by a taxpayer to whom this Part applies and owned by him at a particular time shall, except as prescribed by regulation, be deemed to be a foreign property of the taxpayer at that time.

(4) For the purposes of this section and subsection 207.1(5), the fair market value at the time of acquisition of a small business property of a taxpayer or partnership

a) le total des montants dont chacun représente la juste valeur marchande, à la date de son acquisition par un contribuable visé à l'un des alinéas 205a) à f), d'un bien étranger du contribuable, à l'exclusion, dans le cas d'un contribuable visé à l'un des alinéas 205b) à e), d'un bien étranger qui n'est pas, à la fin du mois, un placement admissible du contribuable (au sens de l'alinéa 204e) ou du paragraphe 146(1), 146.2(1) ou 146.3(1), selon le cas),

dépasse le total

b) de 10 % de l'ensemble des montants dont chacun représente la juste valeur marchande, à la date de son acquisition, d'un bien du contribuable, et

c) du moindre des montants suivants, dans le cas d'un contribuable visé à l'alinéa 205a), b), c) ou e), à l'exception d'un contribuable visé à l'alinéa 149(1)o.2) :

(i) trois fois le montant du placement dans des petites entreprises du contribuable pour le mois,

(ii) le double du montant calculé selon l'alinéa b),

le contribuable doit payer, pour ce mois, un impôt en vertu de la présente partie égal à 1 % du moindre de cet excédent ou du total des montants dont chacun représente la juste valeur marchande, à la date de son acquisition, de chacun de ses biens étrangers qu'il a acquis après le 18 juin 1971.

(3) Par dérogation à la définition de «bien étranger» au paragraphe (1), une action du capital-actions d'une corporation de placement — à l'exception d'un placement enregistré — qu'un contribuable auquel la présente partie s'applique acquiert après le 13 octobre 1971 et qui lui appartient à une date donnée est réputée être, sauf règlement contraire, un bien étranger du contribuable à cette date.

(4) Pour l'application du présent article et du paragraphe 207.1(5), la juste valeur marchande, à la date de son acquisition, d'un bien de petite entreprise d'un contribuable ou d'une société est :

Shares in investment corp.

Fair market value of small business property

Actions d'une corporation de placement

Juste valeur marchande d'un bien de petite entreprise

(a) shall be reduced by the amount of any return or distribution of capital received by the taxpayer or partnership, as the case may be, in respect of the property; and

(b) shall be increased by the amount of any contribution of capital (otherwise than by way of loan) made by the taxpayer or partnership, as the case may be, in respect of the property, subsequent to the acquisition of the property.

Tax in respect
of acquisition of
shares

206.1 Where at any time a taxpayer to which this Part applies has entered into an agreement (otherwise than pursuant to the acquisition or writing by it of an option listed on a prescribed stock exchange) to acquire shares of the capital stock of a corporation from a person other than the corporation at a price that may differ from the fair market value thereof at the time they may be acquired, the taxpayer shall, in respect of each month during which it is a party to the agreement, pay a tax under this Part equal to 1% of the maximum amount that the taxpayer is or may be required to pay for the shares under the agreement."

(2) Subsection (1) is applicable with respect to periods occurring after October 31, 1985, except that in the application of subsection 206(2) of the said Act, as enacted by subsection (1), the amount determined under paragraph (c) thereof shall be deemed to be nil for the period that is before 1986.

111. Subsection 207(3) of the said Act is repealed and the following substituted therefor:

"(3) Subsections 150(2) and (3), sections 152 and 158, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require."

112. (1) Subsection 207.1(3) of the said Act is repealed.

(2) Section 207.1 of the said Act is further amended by adding thereto the following subsection:

a) d'une part, réduite du montant de tout remboursement ou toute répartition de capital que le contribuable ou la société reçoit au titre du bien;

b) d'autre part, augmentée du montant de tout apport de capital — autrement que par voie de prêt — que le contribuable ou la société fait au titre du bien à la suite de son acquisition.

206.1 Un contribuable auquel la présente partie s'applique qui, à une date quelconque, conclut un accord — autrement que par suite de l'acquisition ou de la vente, par lui, d'une option cotée à une bourse de valeurs prescrite — pour acquérir des actions du capital-actions d'une corporation, d'une autre personne que la corporation, à un prix pouvant différer de leur juste valeur marchande à la date de leur acquisition, doit payer, pour chaque mois où il est lié par l'accord, un impôt en vertu de la présente partie égal à 1 % du montant maximal que le contribuable est ou peut être tenu de payer les actions en vertu de l'accord."

Impôt
concernant
l'achat
d'actions

(2) Le paragraphe (1) s'applique aux périodes tombant après le 31 octobre 1985; toutefois, pour l'application du paragraphe 206(2) de la même loi, édicté par le paragraphe (1), à la période qui tombe avant 1986, le montant calculé selon l'alinéa c) est réputé nul.

111. Le paragraphe 207(3) de la même loi est abrogé et remplacé par ce qui suit :

«(3) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.»

Dispositions
applicables

112. (1) Le paragraphe 207.1(3) de la même loi est abrogé.

(2) L'article 207.1 de la même loi est modifié par adjonction de ce qui suit :

Tax on
excessive small
business
property
holdings

“(5) Where at the end of any month a trust governed by a registered retirement savings plan or registered retirement income fund holds a prescribed property, the trust shall, in respect of that month, 5 pay a tax under this Part equal to 1% of the amount, if any, by which

(a) the aggregate of the fair market values, at the time of acquisition, of all prescribed properties held by the trust at 10 the end of the month

exceeds

(b) 50% of the aggregate of the fair market values, at the time of acquisition, of all properties held by the trust at 15 the end of the month.”

(3) Subsection (1) is applicable to months ending after 1985.

(4) Subsection (2) is applicable with respect to property held after October 31, 20 1985.

113. Subsection 207.2(3) of the said Act is repealed and the following substituted therefor:

“(3) Subsections 150(2) and (3), sections 152 and 158, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.” 30

114. Subsection 207.4(2) of the said Act is repealed and the following substituted therefor:

“(2) Subsections 150(2) and (3), sections 152 and 158, subsections 161(1) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part with such modifications as the circumstances require.” 35

115. Subsection 208(4) of the said Act is 40 repealed and the following substituted therefor:

“(4) Subsections 150(2) and (3), sections 152 and 158, subsections 161(1) and (11), sections 162 to 167 and Division J of 45 Part I are applicable to this Part with such

«(5) Une fiducie régie par un régime enregistré d'épargne-retraite ou par un fonds enregistré de revenu de retraite qui détient, à la fin d'un mois quelconque, un bien prescrit, doit payer pour ce mois un 5 impôt en vertu de la présente partie égal à 1 % de l'excédent éventuel

a) du total des justes valeurs marchandes, à la date de leur acquisition, de tous les biens prescrits que la fiducie détient 10 à la fin du mois

sur

b) 50 % du total des justes valeurs marchandes, à la date de leur acquisition, de tous les biens que la fiducie détient à la 15 fin du mois.»

(3) Le paragraphe (1) s'applique aux mois se terminant après 1985.

(4) Le paragraphe (2) s'applique aux biens 20 détenus après le 31 octobre 1985.

113. Le paragraphe 207.2(3) de la même loi est abrogé et remplacé par ce qui suit :

«(3) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section 25 J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.»

Dispositions
applicables

114. Le paragraphe 207.4(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Les paragraphes 150(2) et (3), les 30 articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.»

Dispositions
applicables

115. Le paragraphe 208(4) de la même loi 35 est abrogé et remplacé par ce qui suit :

«(4) Les paragraphes 150(2) et (3), les articles 152 et 158, les paragraphes 161(1) et (11), les articles 162 à 167 et la section 40 J de la partie I s'appliquent à la présente 40 partie, avec les adaptations nécessaires.»

Dispositions
applicables

Provisions
applicable to
Part

Provisions
applicable to
Part

Provisions
applicable to
Part

modifications as the circumstances require.”

116. (1) All that portion of clause 212(1)(b)(ii)(C) of the said Act following subclause (V) thereof is repealed and the following substituted therefor:

“issued after April 15, 1966 and before 1989,”

(2) Subparagraph 212(1)(b)(vi) of the said Act is repealed and the following substituted therefor:

“(vi) interest payable on bonds, debentures, notes, mortgages, hypothecs or similar obligations referred to in subclauses (ii)(C)(I) to (V) issued after 1988, the interest on which is payable to a person who is resident in a prescribed country,”

(3) All that portion of subparagraph 212(1)(b)(vii) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

“(vii) interest payable by a corporation resident in Canada to a person with whom that corporation is dealing at arm’s length on any obligation where the evidence of indebtedness was issued by that corporation after June 23, 1975 and before 1989 if, under the terms of the obligation or any agreement relating thereto, the corporation may not, under any circumstances, be obliged to pay more than 25% of,”

(4) Paragraph 212(1)(b) of the said Act is further amended by striking out the word “and” at the end of subparagraph (viii) thereof, by adding the word “and” at the end of subparagraph (ix) thereof and by adding thereto, immediately after subparagraph (ix) thereof, the following subparagraph:

“(x) interest payable to a prescribed international organization or agency,”

(5) Paragraph 212(1)(p) of the said Act is repealed and the following substituted therefor:

116. (1) Le passage de la division 212(1)b(ii)(C) de la même loi qui suit la subdivision (V) est abrogé et remplacé par ce qui suit :

«émis après le 15 avril 1966 et 5 avant 1989,»

(2) Le sous-alinéa 212(1)b(vi) de la même loi est abrogé et remplacé par ce qui suit :

«(vi) les intérêts payables sur les obligations, billets, hypothèques, *mortgages* ou titres semblables mentionnés aux subdivisions (ii)(C)(I) à (V) et émis après 1988, dont les intérêts sont payables à une personne qui réside dans un pays prescrit,»

(3) Le passage du sous-alinéa 212(1)b(vii) de la même loi qui précède la division (A) est abrogé et remplacé par ce qui suit :

«(vii) les intérêts payables sur un titre par une corporation résidant au Canada à une personne avec laquelle cette corporation n’a aucun lien de dépendance, lorsque le titre de créance a été émis par cette corporation après le 23 juin 1975 et avant 1989, si, selon les modalités du titre ou d’un accord y relatif, la corporation ne peut, en aucun cas, être tenue de verser plus de 25 %,»

(4) L’alinéa 212(1)b) de la même loi est modifié par suppression du mot «et» à la fin du sous-alinéa (viii) et par adjonction de ce qui suit :

«(x) les intérêts payables à une organisation ou institution internationale prescrite,»

(5) L’alinéa 212(1)p) de la même loi est abrogé et remplacé par ce qui suit :

Payments from
R.H.O.S.P.

“(p) a payment out of or under a fund, plan or trust that was at the end of 1985 a registered home ownership savings plan (within the meaning assigned by paragraph 146.2(1)(h) as it read in its application to the 1985 taxation year), other than

(i) the portion of the payment that is a refund of an excess described in paragraph 146.2(7)(a) (as it read in 10 its application to the 1985 taxation year) made on or before April 30, 1986, and

(ii) the portion of the payment that can reasonably be considered to be 15 income of the fund, plan or trust after 1985;”

(6) Subsection 212(2) of the said Act is amended by adding the word “or” at the end of paragraph (a) thereof and by repealing 20 paragraphs (b.1) and (c) thereof.

(7) Subsection 212(12) of the said Act is repealed and the following substituted therefor:

“(12) Where by virtue of subsection 25 56(4) or sections 74 to 75 there is included in computing a taxpayer’s income under Part I for a taxation year an amount paid or credited to a non-resident person in the year, no tax is payable under this section 30 on that amount.”

(8) Subsections (1) to (3) are applicable after May 23, 1985.

(9) Subsection (4) is applicable with respect to interest paid or credited after May 35 23, 1985.

(10) Subsection (5) is applicable to amounts paid or credited after 1985.

(11) Subsection (6) is applicable with respect to stock dividends paid after May 23, 40 1985 other than such dividends declared on or before that day and with respect to life insurance capital dividends paid after May 23, 1985.

(12) Subsection (7) is applicable after 45 May 21, 1985.

«p) un paiement provenant ou en vertu de quelque fonds, régime ou fiducie qui était, à la fin de 1985, un régime enregistré d’épargne-logement (au sens de l’alinéa 146.2(1)h) applicable à l’année 5 d’imposition 1985), à l’exclusion

(i) de la partie du paiement qui consiste en un remboursement d’un excédent visé à l’alinéa 146.2(7)a) (appli- 10 cable à l’année d’imposition 1985) effectué au plus tard le 30 avril 1986, et

(ii) de la partie du paiement qu’il est raisonnable de considérer comme le revenu du fonds, du régime ou de la 15 fiducie après 1985;»

(6) Le paragraphe 212(2) de la même loi est modifié par adjonction du mot «ou» à la fin de l’alinéa a) et par abrogation des ali- 20 néas b.1) et c).

(7) Le paragraphe 212(12) de la même loi est abrogé et remplacé par ce qui suit :

«(12) Lorsque, en vertu du paragraphe 56(4) ou des articles 74 à 75, une somme versée à une personne non résidente ou 25 portée à son crédit dans une année d’imposition est incluse dans le calcul du revenu d’un contribuable en vertu de la partie I pour l’année, aucun impôt n’est payable sur cette somme en vertu du présent 30 article.»

(8) Les paragraphes (1) à (3) s’appliquent après le 23 mai 1985.

(9) Le paragraphe (4) s’applique aux inté- 35 rêts payés ou crédités après le 23 mai 1985.

(10) Le paragraphe (5) s’applique aux montants payés ou crédités après 1985.

(11) Le paragraphe (6) s’applique aux dividendes en actions versés après le 23 mai 40 1985, à l’exclusion des dividendes en actions déclarés à cette date ou avant, ainsi qu’aux dividendes en capital d’assurance-vie versés après le 23 mai 1985.

(12) Le paragraphe (7) s’applique après le 21 mai 1985. 45

Paielements
provenant d’un
régime
enregistré
d’épargne-loge-
ment

20

Paieement
réputé au
conjoint

35

45

Deemed
payments to
spouse, etc.

117. (1) Paragraph 214(3)(g) of the said Act is repealed and the following substituted therefor:

“(g) where an individual who is a beneficiary under a fund, plan or trust that was a registered home ownership savings plan (within the meanings assigned by subparagraphs 146.2(1)(a) and (h) as they read in their application to the 1985 taxation year) on December 31, 1985 dies, an amount equal to the fair market value of the property in the fund, plan or trust at the time of death shall be deemed, for the purposes of section 212, to have been paid to the individual at the time of death as a payment out of or under a fund, plan or trust that was at the end of 1985 a registered home ownership savings plan;”

(2) Subsection (1) is applicable after 1985.

118. (1) Subsection 227(5) of the said Act is repealed and the following substituted therefor:

“(5) Notwithstanding any provision of the *Bankruptcy Act*, in the event of any liquidation, assignment, receivership or bankruptcy of or by a person, an amount equal to the amount deemed by subsection (4) to be held in trust for Her Majesty shall be deemed to be separate from and form no part of the estate in liquidation, assignment, receivership or bankruptcy, whether or not that amount has in fact been kept separate and apart from the person's own moneys or from the assets of the estate.”

(2) Section 227 of the said Act is further amended by adding thereto, immediately after subsection (10.1) thereof, the following subsections:

“(10.2) Notwithstanding any other provision of this Act, any other enactment of Canada, any enactment of a province or any law, where a person has been assessed under subsection (10.1) or a similar provision, the amount determined under subsection (10.3) is secured by a charge upon the

117. (1) L'alinéa 214(3)(g) de la même loi est abrogé et remplacé par ce qui suit :

«(g) en cas de décès d'un particulier qui, le 31 décembre 1985, est bénéficiaire de quelque fonds, régime ou fiducie qui était un régime enregistré d'épargne-logement (au sens des alinéas 146.2(1)a) et h) applicables à l'année d'imposition 1985), le montant égal à la juste valeur marchande des biens, du fonds, du régime ou de la fiducie lors du décès est réputé, pour l'application de l'article 212, avoir été versé au particulier lors du décès à titre de paiement provenant ou en vertu de quelque fonds, régime ou fiducie qui était, à la fin de 1985, un régime enregistré d'épargne-logement;»

(2) Le paragraphe (1) s'applique après 1985.

118. (1) Le paragraphe 227(5) de la même loi est abrogé et remplacé par ce qui suit :

«(5) Nonobstant les dispositions de la Loi sur la faillite, en cas de liquidation, cession, mise sous séquestre ou faillite d'une personne, un montant égal au montant réputé, selon le paragraphe (4), être détenu en fiducie pour Sa Majesté est considéré comme tenu séparé et ne forme pas partie du patrimoine visé par la liquidation, cession, mise sous séquestre ou faillite, que ce montant ait été ou non, en fait, tenu séparé des propres fonds de la personne ou des éléments du patrimoine.»

(2) L'article 227 de la même loi est modifié par insertion, après le paragraphe (10.1), de ce qui suit :

«(10.2) Nonobstant les autres dispositions de la présente loi, d'un autre texte législatif fédéral ou d'un texte législatif provincial et nonobstant toute règle de droit, lorsqu'une personne a été cotisée en vertu du paragraphe (10.1) ou d'une disposition semblable, le montant calculé selon

Montant en fiducie exclu de la masse

Créance prioritaire

Amount in trust not part of estate

Priority

property referred to in subsection (10.4) and the charge has priority over all other claims and all other security interests.

(10.3) The amount that, pursuant to subsection (10.2), is secured by a charge on the property of a person is that part, if any, of the amount for which he was assessed under subsection (10.1) or a similar provision that is equal to the aggregate of all amounts each of which is an amount 10 that

(a) he has deducted or withheld as required by this Act or a regulation at any time during the 90 day period immediately preceding 15

(i) the day of mailing of a notice of an original assessment under subsection (10.1) or a similar provision, or

(ii) where the person has been assessed in respect of an amount 20 deducted or withheld before the day of the appointment of a trustee to administer, manage, distribute, wind up, control or otherwise deal with the property, business, estate or income of 25 that person, that day; and

(b) he has failed to remit to the Receiver General.

(10.4) The property of a person on which a charge is created under subsection 30 (10.2) is all the property held by that person

(a) at any time after the day on which a certificate in respect of the amount assessed under subsection (10.1) or a 35 similar provision is registered in the Federal Court; or

(b) where the person has been assessed in respect of an amount deducted or withheld before the day of the appoint- 40 ment of a trustee to administer, manage, distribute, wind up, control or otherwise deal with the property, business, estate

le paragraphe (10.3) est garanti par une sûreté sur les biens visés au paragraphe (10.4) qui lui permet d'être colloqué par priorité sur toutes les autres réclamations et garanties. 5

(10.3) Le montant qui, conformément au paragraphe (10.2), est garanti par une sûreté sur les biens d'une personne correspond à la partie éventuelle du montant de la cotisation établie à l'égard de cette per- 10 sonne en vertu du paragraphe (10.1) ou d'une disposition semblable, qui correspond au total des montants dont chacun représente un montant

a) que la personne a déduit ou retenu, 15 conformément à la présente loi ou à un règlement d'application, à une date quelconque de la période de 90 jours qui précède :

(i) soit la date de mise à la poste d'un 20 premier avis de cotisation en vertu du paragraphe (10.1) ou d'une disposition semblable;

(ii) soit la date de nomination d'un fiduciaire chargé d'administrer, gérer, 25 répartir ou attribuer, liquider ou garder des biens, l'entreprise, le patrimoine ou le revenu de la personne ou de s'en occuper autrement, dans le cas où celle-ci a été cotisée pour un mon- 30 tant déduit ou retenu avant cette date; et

b) que la personne n'a pas remis au receveur général.

(10.4) Les biens d'une personne sur les- 35 Biens grevés de la sûreté
quels une sûreté est créée en vertu du paragraphe (10.2) sont tous les biens que cette personne détient :

a) soit à une date postérieure à la date d'enregistrement auprès de la Cour 40 fédérale d'un certificat concernant le montant de la cotisation établie en vertu du paragraphe (10.1) ou d'une disposition semblable;

b) soit à la date qui précède la date de 45 nomination d'un fiduciaire chargé d'administrer, gérer, répartir ou attribuer, liquider ou garder des biens, l'entreprise, le patrimoine ou le revenu de cette per-

Amount
secured

Montant
garanti

Property
charged

	or income of that person, immediately before that day.		sonne ou de s'en occuper autrement, dans le cas où celle-ci a été cotisée pour un montant déduit ou retenu avant la date de nomination.	
Third party demand	(10.5) Without limiting the generality of subsection (10.2), where the Minister has knowledge or suspects that, but for a claim or security interest in favour of a person (in this subsection referred to as the "secured creditor"), a taxpayer would be or would become, within 90 days, liable to make a payment to another person who has been assessed under subsection (10.1) or a similar provision (in this subsection referred to as the "tax debtor"), the Minister may, by registered letter or by a letter served personally, require the taxpayer to pay forthwith, where the moneys are immediately payable and, in any other case, as and when the moneys become payable, the moneys otherwise payable to the secured creditor in whole or in part to the Receiver General on account of the tax debtor's liability under this Act, to the extent of the portion of the assessed amount in respect of which a charge on the tax debtor's property has been created under subsection (10.2).	5 10 15 20 25	(10.5) Sans que soit limitée la portée générale du paragraphe (10.2), si le ministre sait ou soupçonne que, n'eût été une réclamation ou garantie en faveur d'une personne — appelée «créancier garanti» au présent paragraphe — un contribuable serait ou deviendrait redevable, dans les 90 jours, d'un paiement à une autre personne cotisée en vertu du paragraphe (10.1) ou d'une disposition semblable — appelée «débiteur fiscal» au présent paragraphe —, il peut, par lettre recommandée ou signifiée à personne, obliger le contribuable à payer sans délai au receveur général, au titre du montant dont le débiteur fiscal est redevable en vertu de la présente loi, tout ou partie des fonds payables par ailleurs au créancier garanti, si ces fonds sont exigibles ou à mesure qu'ils le deviennent, jusqu'à concurrence de la partie du montant de la cotisation à l'égard de laquelle une sûreté sur les biens du débiteur fiscal a été créée en vertu du paragraphe (10.2).	5 Revendication par un tiers 10 15 20 25
Application of certain provisions	(10.6) Where the Minister imposes a requirement under subsection (10.5), subsections 224(2), (3), (4), (5) and (6) and subsection 227(10) are applicable to the requirement with such modifications as the circumstances require.	30	(10.6) Lorsque le ministre agit conformément au paragraphe (10.5), les paragraphes 224(2), (3), (4), (5) et (6) et 227(10) s'appliquent, avec les adaptations nécessaires.	Dispositions applicables
Amounts recoverable	(10.7) An amount assessed under a similar provision shall be deemed to be an amount payable under this Act.	35	(10.7) Le montant d'une cotisation établie en vertu d'une disposition semblable est réputé être un montant payable en vertu de la présente loi.	Montant à recouvrer
Definitions "claim" «réclamation»	(10.8) In subsections (10.2) to (10.7), "claim" means a claim of any kind whatever, however or whenever arising, absolute or contingent, legal or equitable in nature, consensual or statutory in origin, secured or unsecured, including a claim of Her Majesty in right of Canada or any province, or in any other right, but does not include a charge created under subsection (10.2);	40 45	(10.8) Les définitions qui suivent s'appliquent aux paragraphes (10.2) à (10.7). «bien» Sont compris dans un bien : a) un droit — fondé en droit ou en equity, immédiat ou futur, conditionnel ou non — sur tous les biens mobiliers et immobiliers, corporels et incorporels, qu'ils soient ou non affectés à une garantie; b) un bien substitué au droit visé à l'alinéa a).	Définitions «bien» "property"
"property" «biens»	"property" includes			

(a) an interest, legal or equitable in nature, immediate or future, absolute or contingent, in all property, real and personal, tangible and intangible, whether subject to a security interest or not, and

(b) property substituted for the interest described in paragraph (a),

but does not include property that is subject to a security interest in favour of the seller or lessor of the property to secure payment of all or part of its price or performance in whole or in part of an obligation, if such security interest has not been transferred or assigned to a third party without recourse against the seller or lessor, as the case may be, to the extent of the interest of the seller or lessor in the property subject to such security interest;

"security interest" includes a security interest, debenture, mortgage, hypothec, lien, pledge, charge, deemed or actual trust, assignment or encumbrance of any kind whatever, however or whenever arising, created, deemed to arise or otherwise provided for;

"similar provision" means a provision, similar to subsection (10.1), of any Act of a province that imposes a tax similar to the tax imposed under this Act, where the province has entered into an agreement with the Minister of Finance for the collection of the taxes payable to the province under that Act;

"trustee" means an assignee, liquidator, receiver, receiver-manager, trustee in bankruptcy, sequestrator or any other person performing a function similar to that performed by any such person."

"security interest"
«garantie»

"similar provision"
«disposition semblable»

"trustee"
«fiduciaire»

Sont exclus les biens affectés, en faveur du vendeur ou du locateur, à une garantie pour garantir le paiement de tout ou partie du prix des biens ou l'exécution de tout ou partie d'une obligation, si la garantie n'a été ni transférée ni cédée à un tiers sans recours contre le vendeur ou le locateur, selon le cas, jusqu'à concurrence du droit du vendeur ou du locateur sur ces biens.

«disposition semblable» Disposition, semblable au paragraphe (10.1), d'une loi provinciale qui prévoit un impôt semblable à celui prévu par la présente loi, si la province concernée a conclu avec le ministre des Finances un accord pour le recouvrement des impôts payables à celle-ci en vertu de cette loi provinciale.

«fiduciaire» Cessionnaire, liquidateur, séquestre, séquestre-gérant, syndic de faillite, administrateur-séquestre ou autre personne dont les fonctions sont semblables à celles de l'une de ces personnes.

«garantie» Sont compris dans une garantie une débeture, une hypothèque, un *mortgage*, un privilège, un nantissement, une sûreté, une fiducie réputée ou réelle, une cession ou une charge, quelle qu'en soit la nature, de quelque façon ou à quelque date qu'elle soit créée, réputée exister ou prévue par ailleurs.

«réclamation» Réclamation, quelle qu'en soit la nature, de quelque façon ou à quelque date qu'elle existe, conditionnelle ou non, fondée en droit ou en *equity*, d'origine conventionnelle ou légale, garantie ou non, y compris une réclamation de Sa Majesté du chef du Canada, d'une province ou autre, à l'exclusion d'une sûreté créée en vertu du paragraphe (10.2).»

«disposition semblable»
"similar provision"

«fiduciaire»
"trustee"

«garantie»
"security interest"

«réclamation»
"claim"

(3) Subsection (1) is applicable to amounts that were deducted or withheld after May 23, 1985.

(4) Subsection (2) is applicable to assessments in respect of amounts that were deducted or withheld after the day on which this Act is assented to.

(3) Le paragraphe (1) s'applique aux montants déduits ou retenus après le 23 mai 1985.

(4) Le paragraphe (2) s'applique aux cotisations établies pour les montants déduits ou retenus après la date de sanction de la présente loi.

<p>119. (1) Section 229 of the said Act is repealed.</p> <p>(2) Subsection (1) shall come into force on a day to be fixed by proclamation.</p> <p>120. (1) Subsection 230(1.1) of the said Act is repealed.</p> <p>(2) Subsection (1) is applicable to the requirement to retain books and records for taxation years ending after 1986.</p> <p>121. Section 231 of the said Act is repealed and the following substituted therefor:</p>		<p>119. (1) L'article 229 de la même loi est abrogé.</p> <p>(2) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.</p> <p>120. (1) Le paragraphe 230(1.1) de la même loi est abrogé.</p> <p>(2) Le paragraphe (1) s'applique à l'obligation de tenir des livres de comptes et des registres pour les années d'imposition se terminant après 1986.</p> <p>121. L'article 231 de la même loi est abrogé et remplacé par ce qui suit :</p>	
Interpretation	<p>"231. In sections 231.1 to 231.5,</p> <p>"authorized person" means a person authorized by the Minister for the purposes of sections 231.1 to 231.5; 15</p> <p>"documents" includes money, securities and any of the following, whether computerized or not: books, records, letters, telegrams, vouchers, invoices, accounts and statements (financial or otherwise); 20</p> <p>"dwelling-house" means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes 25</p> <p>(a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and</p> <p>(b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence; 30</p> <p>"judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court. 35</p>	<p>"231. Les définitions qui suivent s'appliquent aux articles 231.1 à 231.5.</p> <p>«documents» Sont compris dans documents, qu'ils soient informatisés ou non, les livres, les registres, les lettres, les télégrammes, les pièces justificatives, les factures, les comptes et les états (financiers ou non). Sont assimilés à des documents les titres et les espèces. 15</p> <p>«juge» Juge d'une cour supérieure compétente de la province où l'affaire prend naissance ou juge de la Cour fédérale. 20</p> <p>«maison d'habitation» Tout ou partie de quelque bâtiment ou construction tenu ou occupé comme résidence permanente ou temporaire, y compris : 25</p> <p>a) un bâtiment qui se trouve dans la même enceinte qu'une maison d'habitation et qui y est relié par une baie de porte ou par un passage couvert et clos; 30</p> <p>b) une unité conçue pour être mobile et pour être utilisée comme résidence permanente ou temporaire et qui est ainsi utilisée. 35</p> <p>«personne autorisée» Personne autorisée par le ministre pour l'application des articles 231.1 à 231.5. 40</p>	Définitions «documents» "documents" «juge» "judge" «maison d'habitation» "dwelling house" «personne autorisée» "authorized person"
Inspections	<p>231.1 (1) An authorized person may, at all reasonable times, for any purpose related to the administration or enforcement of this Act, 40</p> <p>(a) inspect, audit or examine the books and records of a taxpayer and any docu-</p>	<p>231.1 (1) Une personne autorisée peut, en tout temps raisonnable, pour l'application et l'exécution de la présente loi, à la fois :</p> <p>a) inspecter, vérifier ou examiner les livres et registres d'un contribuable ainsi</p>	Enquêtes

ment of the taxpayer or of any other person that relates or may relate to the information that is or should be in the books or records of the taxpayer or to any amount payable by him under this Act, and 5

(b) examine property in an inventory of a taxpayer and any property or process of, or matter relating to, the taxpayer or any other person, an examination of 10 which may assist the authorized person in determining the accuracy of the inventory of the taxpayer or in ascertaining the information that is or should be in the books or records of the taxpayer or any amount payable by him under this Act, 15

and for those purposes the authorized person may

(c) subject to subsection (2), enter into 20 any premises or place where any business is carried on, any property is kept, anything is done in connection with any business or any books or records are or should be kept; and 25

(d) require the owner or manager of the property or business and any other person on the premises or place to give him all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act and, for that purpose, require the owner or manager to attend at the premises or place with him. 30

Prior authorization

(2) Where any premises or place 35 referred to in paragraph (1)(c) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection (3). 40

Application

(3) Where, on *ex parte* application by the Minister, a judge is satisfied by information on oath

(a) that there are reasonable grounds to believe that a dwelling-house is a premises or place referred to in paragraph (1)(c), 45

que tous documents du contribuable ou d'une autre personne qui se rapportent ou peuvent se rapporter soit aux renseignements qui figurent dans les livres ou registres du contribuable ou qui 5 devraient y figurer, soit à tout montant payable par le contribuable en vertu de la présente loi,

b) examiner les biens décrits dans un inventaire d'un contribuable ainsi que 10 tout bien ou tout procédé du contribuable ou d'une autre personne ou toute matière concernant l'un ou l'autre, dont l'examen peut aider la personne autorisée à établir l'exactitude de l'inventaire 15 du contribuable ou à contrôler soit les renseignements qui figurent dans les livres ou registres du contribuable ou qui devraient y figurer, soit tout montant payable par le contribuable en 20 vertu de la présente loi;

à ces fins, la personne autorisée peut :

c) sous réserve du paragraphe (2), pénétrer dans un lieu où est exploitée une entreprise, est gardé un bien, est faite 25 une chose en rapport avec une entreprise ou sont tenus ou devraient l'être des livres ou registres;

d) requérir le propriétaire ou gérant du bien ou de l'entreprise ainsi que toute 30 autre personne présente sur le lieu de lui fournir toute l'aide raisonnable et de répondre à toutes les questions pertinentes à l'application et l'exécution de la présente loi et, à cette fin, requérir le 35 propriétaire ou le gérant de l'accompagner sur le lieu.

Autorisation préalable

(2) Lorsque le lieu mentionné à l'alinéa (1)c) est une maison d'habitation, une personne autorisée ne peut y pénétrer sans la 40 permission de l'occupant, à moins d'y être autorisée par un mandat décerné en vertu du paragraphe (3).

Mandat d'entrée

(3) Sur requête *ex parte* du ministre, le juge saisi décerne un mandat qui autorise 45 une personne autorisée à pénétrer dans une maison d'habitation aux conditions que peut préciser le mandat, s'il est convaincu, sur déclaration sous serment, de ce qui suit : 50

Requirement to provide documents or information

Unnamed Persons

(b) that entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) that entry into the dwelling-house has been refused or that there are reasonable grounds to believe that entry thereto will be refused,

he shall issue a warrant authorizing an authorized person to enter that dwelling-house subject to such conditions as may be specified in the warrant but, where the judge is not satisfied that entry into that dwelling house is necessary for any purpose relating to the administration or enforcement of this Act, he shall

(d) order the occupant of the dwelling-house to provide reasonable access to an authorized person to any document or property that is or should be kept therein, and

(e) make such other order as is appropriate in the circumstances to carry out the purposes of this Act

to the extent that access has been or may be expected to be refused and that the document or property is or may be expected to be kept in the dwelling-house.

231.2 (1) Notwithstanding any other provision of this Act, the Minister may, subject to subsection (2), for any purpose related to the administration or enforcement of this Act, by notice served personally or by registered or certified mail, require that any person provide, within such reasonable time as is stipulated in the notice,

- (a) any information or additional information, including a return of income or a supplementary return;
- (b) any document.

(2) The Minister shall not impose on any person (in this section referred to as a "third party") a requirement under subsection (1) to provide information or any document relating to one or more unnamed persons unless he first obtains the authorization of a judge under subsection (3).

- a) il existe des motifs raisonnables de croire qu'une maison d'habitation est un lieu mentionné à l'alinéa (1)c);
- b) il est nécessaire d'y pénétrer pour l'application et l'exécution de la présente loi;
- c) un refus d'y pénétrer a été opposé ou il existe des motifs raisonnables de croire qu'un tel refus sera opposé.

Dans la mesure où un refus de pénétrer dans la maison d'habitation a été opposé ou pourrait l'être et où les documents ou biens sont gardés dans la maison d'habitation ou pourraient l'être, le juge qui n'est pas convaincu qu'il est nécessaire de pénétrer dans la maison d'habitation pour l'application et l'exécution de la présente loi doit ordonner à l'occupant de la maison d'habitation de permettre à une personne autorisée d'avoir raisonnablement accès à tous documents ou biens qui sont gardés dans la maison d'habitation ou devraient y être gardés et rend toute autre ordonnance indiquée en l'espèce pour l'application de la présente loi.

231.2 (1) Nonobstant les autres dispositions de la présente loi, le ministre peut, sous réserve du paragraphe (2) et, pour l'application et l'exécution de la présente loi, par avis signifié à personne ou envoyé par courrier recommandé ou certifié, exiger d'une personne, dans le délai raisonnable que précise l'avis,

- a) qu'elle fournisse tout renseignement ou tout renseignement supplémentaire, y compris une déclaration de revenu ou une déclaration supplémentaire;
- b) qu'elle produise des documents.

(2) Le ministre ne peut exiger de quiconque — appelé «tiers» au présent article — la fourniture de renseignements ou production de documents prévue au paragraphe (1) concernant une ou plusieurs personnes non désignées nommément, sans y être au préalable autorisé par un juge en vertu du paragraphe (3).

Production de documents ou fourniture de renseignements

Personnes non désignées nommément

Judicial
Authorization

(3) On *ex parte* application by the Minister, a judge may, subject to such conditions as he considers appropriate, authorize the Minister to impose on a third party a requirement under subsection (1) relating to an unnamed person or more than one unnamed person (in this section referred to as the "group") where the judge is satisfied by information on oath that

- (a) the person or group is ascertainable;
- (b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Act;
- (c) it is reasonable to expect, based on any grounds, including information (statistical or otherwise) or past experience relating to the group or any other persons, that the person or any person in the group may have failed or may be likely to fail to provide information that is sought pursuant to the requirement or to otherwise comply with this Act; and
- (d) the information or document is not otherwise more readily available.

Service of
authorization

(4) Where an authorization is granted under subsection (3), the authorization shall be served together with the notice referred to in subsection (1).

Review of
authorization

(5) Where an authorization is granted under subsection (3), a third party on whom a notice is served under subsection (1) may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, where the judge is unable to act, to another judge of the same court for a review of the authorization.

Powers on
review

(6) On hearing an application under subsection (5), a judge may cancel the authorization previously granted if he is not then satisfied that the conditions in

Autorisation
judiciaire

(3) Sur requête *ex parte* du ministre, un juge peut, aux conditions qu'il estime indiquées, autoriser le ministre à exiger d'un tiers la fourniture de renseignements ou production de documents prévue au paragraphe (1) concernant une personne non désignée nommément ou plus d'une personne non désignée nommément — appelée «groupe» au présent article —, s'il est convaincu, sur dénonciation sous serment, de ce qui suit :

- a) cette personne ou ce groupe est identifiable;
- b) la fourniture ou la production est exigée pour vérifier si cette personne ou les personnes de ce groupe ont respecté quelque devoir ou obligation prévu par la présente loi;
- c) il est raisonnable de s'attendre — pour n'importe quel motif, notamment des renseignements (statistiques ou autres) ou l'expérience antérieure, concernant ce groupe ou toute autre personne — à ce que cette personne ou une personne de ce groupe n'ait pas fourni les renseignements exigés ou ne les fournisse vraisemblablement pas ou n'ait pas respecté par ailleurs la présente loi ou ne la respecte vraisemblablement pas;
- d) il n'est pas possible d'obtenir plus facilement les renseignements ou les documents.

(4) L'autorisation accordée en vertu du paragraphe (3) doit être jointe à l'avis visé au paragraphe (1).

Signification ou
envoi de
l'autorisation

(5) Le tiers à qui un avis est signifié ou envoyé conformément au paragraphe (1) peut, dans les 15 jours suivant la date de signification ou d'envoi, demander au juge qui a accordé l'autorisation prévue au paragraphe (3) ou, en cas d'incapacité de ce juge, à un autre juge du même tribunal de réviser l'autorisation.

Révision de
l'autorisation

(6) À l'audition de la requête prévue au paragraphe (5), le juge peut annuler l'autorisation accordée antérieurement s'il n'est pas convaincu de l'existence des con-

Pouvoir de
révision

	paragraphs (3)(a) to (d) have been met and he may confirm or vary the authorization if he is satisfied that those conditions have been met.		ditions prévues aux alinéas (3)a) à d). Il peut la confirmer ou la modifier s'il est convaincu de leur existence.	
Additional remedy	(7) Where a person is found guilty of an offence under subsection 238(2) for failing to comply with a requirement under subsection (1), the court may make such order as it deems proper in order to enforce compliance with the requirement.	5 10	(7) Le tribunal peut rendre l'ordonnance qu'il estime indiquée pour faire respecter l'exigence de fourniture ou production prévue au paragraphe (1), lorsqu'une personne est déclarée coupable d'infraction au paragraphe 238(2) pour n'avoir pas obtempéré à cette exigence.	5 10 Ordonnance d'exécution
Search Warrant	231.3 (1) A judge may, on <i>ex parte</i> application by the Minister, issue a warrant in writing authorizing any person named therein to enter and search any building, receptacle or place for any document or thing that may afford evidence as to the commission of an offence under this Act and to seize and, as soon as practicable, bring the document or thing before, or make a report in respect thereof to, the judge or, where the judge is unable to act, another judge of the same court to be dealt with by the judge in accordance with this section.	15 20	231.3 (1) Sur requête <i>ex parte</i> du ministre, un juge peut décerner un mandat écrit qui autorise toute personne qui y est nommée à pénétrer dans tout bâtiment, contenant ou endroit et y perquisitionner pour y chercher des documents ou choses qui peuvent constituer des éléments de preuve de la perpétration d'une infraction à la présente loi, à saisir ces documents ou choses et, dès que matériellement possible, soit à les apporter au juge ou, en cas d'incapacité de celui-ci, à un autre juge du même tribunal, soit à lui en faire rapport, pour que le juge en dispose conformément au présent article.	15 20 25 Requête pour mandat de perquisition
Evidence in support of application	(2) An application under subsection (1) shall be supported by information on oath establishing the facts on which the application is based.	25	(2) La requête visée au paragraphe (1) doit être appuyée par une dénonciation sous serment qui expose les faits au soutien de la requête.	25 Preuve au soutien de la requête
Evidence	(3) A judge shall issue the warrant referred to in subsection (1) where he is satisfied that there are reasonable grounds to believe that (a) an offence under this Act has been committed; (b) a document or thing that may afford evidence of the commission of the offence is likely to be found; and (c) the building, receptacle or place specified in the application is likely to contain such a document or thing.	30 35 40	(3) Le juge saisi de la requête décerne le mandat mentionné au paragraphe (1) s'il est convaincu qu'il existe des motifs raisonnables de croire ce qui suit : a) une infraction prévue par la présente loi a été commise; b) il est vraisemblable de trouver des documents ou choses qui peuvent constituer des éléments de preuve de la perpétration de l'infraction; c) le bâtiment, contenant ou endroit précisé dans la requête contient vraisemblablement de tels documents ou choses.	30 35 40 Preuve
Contents of warrant	(4) A warrant issued under subsection (1) shall refer to the offence for which it is issued, identify the building, receptacle or place to be searched and the person alleged to have committed the offence and it shall be reasonably specific as to any	45	(4) Un mandat décerné en vertu du paragraphe (1) doit indiquer l'infraction pour laquelle il est décerné, dans quel bâtiment, contenant ou endroit perquisitionner ainsi que la personne accusée d'avoir commis l'infraction. Il doit donner suffi-	45 Contenu du mandat

document or thing to be searched for and seized.

Seizure of document

(5) Any person who executes a warrant under subsection (1) may seize, in addition to the document or thing referred to in subsection (1), any other document or thing that he believes on reasonable grounds affords evidence of the commission of an offence under this Act and shall as soon as practicable bring the document or thing before, or make a report in respect thereof to, the judge who issued the warrant or, where the judge is unable to act, another judge of the same court to be dealt with by the judge in accordance with this section.

Retention of things seized

(6) Subject to subsection (7), where any document or thing seized under subsection (1) or (5) is brought before a judge or a report in respect thereof is made to a judge, the judge shall, unless the Minister waives retention, order that it be retained by the Minister, who shall take reasonable care to ensure that it is preserved until the conclusion of any investigation into the offence in relation to which the document or thing was seized or until it is required to be produced for the purposes of a criminal proceeding.

Return of things seized

(7) Where any document or thing seized under subsection (1) or (5) is brought before a judge or a report in respect thereof is made to a judge, the judge may, of his own motion or on summary application by a person with an interest in the document or thing on three clear days notice of application to the Deputy Attorney General of Canada, order that the document or thing be returned to the person from whom it was seized or the person who is otherwise legally entitled thereto if the judge is satisfied that the document or thing

- (a) will not be required for an investigation or a criminal proceeding; or
- (b) was not seized in accordance with the warrant or this section.

samment de précisions sur les documents ou choses à chercher et à saisir.

Saisie d'autres documents

(5) Quiconque exécute un mandat décerné en vertu du paragraphe (1) peut saisir, outre les documents ou choses mentionnés à ce paragraphe, tous autres documents ou choses qu'il croit, pour des motifs raisonnables, constituer des éléments de preuve de la perpétration d'une infraction à la présente loi. Il doit, dès que matériellement possible, soit apporter ces documents ou choses au juge qui a décerné le mandat ou, en cas d'incapacité de celui-ci, à un autre juge du même tribunal, soit lui en faire rapport, pour que le juge en dispose conformément au présent article.

Rétention des choses saisies

(6) Sous réserve du paragraphe (7), lorsque des documents ou choses saisis en vertu du paragraphe (1) ou (5) sont apportés à un juge ou qu'il en est fait rapport à un juge, ce juge ordonne que le ministre les retienne sauf si celui-ci y renonce. Le ministre qui retient des documents ou choses doit en prendre raisonnablement soin pour s'assurer de leur conservation jusqu'à la fin de toute enquête sur l'infraction en rapport avec laquelle les documents ou choses ont été saisis ou jusqu'à ce que leur production soit exigée aux fins d'une procédure criminelle.

Restitution des choses saisies

(7) Le juge à qui des documents ou choses saisis en vertu du paragraphe (1) ou (5) sont apportés ou à qui il en est fait rapport peut, d'office ou sur requête sommaire d'une personne ayant un droit dans ces documents ou choses avec avis au sous-procureur général du Canada trois jours francs avant qu'il y soit procédé, ordonner que ces documents ou choses soient restitués à la personne à qui ils ont été saisis ou à la personne qui y a légalement droit par ailleurs, s'il est convaincu que ces documents ou choses :

- a) soit ne seront pas nécessaires à une enquête ou à une procédure criminelle;
- b) soit n'ont pas été saisis conformément au mandat ou au présent article.

Access and copies	<p>(8) The person from whom any document or thing is seized pursuant to this section is entitled, at all reasonable times and subject to such reasonable conditions as may be imposed by the Minister, to inspect the document or thing and to obtain one copy of the document at the expense of the Minister.</p>	<p>(8) La personne à qui des documents ou choses sont saisis conformément au présent article a le droit, en tout temps raisonnable et aux conditions raisonnables que peut imposer le ministre, d'examiner ces documents ou choses et d'obtenir reproduction des documents au frais du ministre en une seule copie.</p>	Accès aux documents et reproduction
Inquiry	<p>231.4 (1) The Minister may, for any purpose related to the administration or enforcement of this Act, authorize any person, whether or not he is an officer of the Department of National Revenue, to make such inquiry as he may deem necessary with reference to anything relating to the administration or enforcement of this Act.</p>	<p>231.4 (1) Le ministre peut, pour l'application et l'exécution de la présente loi, autoriser une personne, qu'il s'agisse ou non d'un fonctionnaire du ministère du Revenu national, à faire toute enquête que celle-ci estime nécessaire sur quoi que ce soit qui se rapporte à l'application et l'exécution de la présente loi.</p>	Enquête
Appointment of hearing officer	<p>(2) Where the Minister, pursuant to subsection (1), authorizes a person to make an inquiry, the Minister shall forthwith apply to the Tax Court of Canada for an order appointing a hearing officer before whom the inquiry will be held.</p>	<p>(2) Le ministre qui, conformément au paragraphe (1), autorise une personne à faire enquête doit immédiatement demander à la Cour canadienne de l'impôt une ordonnance où soit nommé un président d'enquête.</p>	Nomination d'un président d'enquête
Powers of hearing officer	<p>(3) For the purposes of an inquiry authorized under subsection (1), a hearing officer appointed under subsection (2) in relation thereto has all the powers conferred on a commissioner by sections 4 and 5 of the <i>Inquiries Act</i> and that may be conferred on a commissioner under section 11 thereof.</p>	<p>(3) Aux fins d'une enquête autorisée par le paragraphe (1), le président d'enquête nommé en vertu du paragraphe (2) a tous les pouvoirs conférés à un commissaire par les articles 4 et 5 de la <i>Loi sur les enquêtes</i> et ceux qui sont susceptibles de l'être par l'article 11 de cette loi.</p>	Pouvoirs du président d'enquête
When powers to be exercised	<p>(4) A hearing officer appointed under subsection (2) in relation to an inquiry shall exercise the powers conferred on a commissioner by section 4 of the <i>Inquiries Act</i> in relation to such persons as the person authorized to make the inquiry considers appropriate for the conduct thereof but the hearing officer shall not exercise the power to punish any person unless, on application by the hearing officer, a judge of a superior or county court certifies that the power may be exercised in the matter disclosed in the application and the applicant has given to the person in respect of whom he proposes to exercise the power 24 hours notice of the hearing of the application or such shorter notice as the judge considers reasonable.</p>	<p>(4) Le président d'enquête nommé en vertu du paragraphe (2) exerce les pouvoirs conférés à un commissaire par l'article 4 de la <i>Loi sur les enquêtes</i> à l'égard des personnes que la personne autorisée à faire enquête considère comme appropriées pour la conduite de celle-ci; toutefois, le président d'enquête ne peut exercer le pouvoir de punir une personne que si, à la requête de celui-ci, un juge d'une cour supérieure ou d'une cour de comté atteste que ce pouvoir peut être exercé dans l'affaire exposée dans la requête et que si le requérant donne à la personne à l'égard de laquelle il se propose d'exercer ce pouvoir avis de l'audition de la requête 24 heures avant ou dans le délai plus court que le juge estime raisonnable.</p>	Exercice des pouvoirs du président d'enquête

Rights of
witness at
inquiry

(5) Any person who gives evidence in an inquiry authorized under subsection (1) is entitled to be represented by counsel and, on request made by him to the Minister, to receive a transcript of the evidence given by him. 5

(5) Quiconque témoigne à une enquête autorisée par le paragraphe (1) a le droit d'être représenté par avocat et, sur demande faite au ministre, de recevoir transcription de sa déposition. 5

Droits des
témoins à
l'enquête

Rights of
person whose
affairs are
investigated

(6) Any person whose affairs are investigated in the course of an inquiry authorized under subsection (1) is entitled to be present and to be represented by counsel throughout the inquiry unless the hearing officer appointed under subsection (2) in relation to the inquiry, on application by the Minister or a person giving evidence, orders otherwise in relation to the whole or any part of the inquiry on the ground that the presence of the person and his counsel, or either of them, would be prejudicial to the effective conduct of the inquiry. 10 15

(6) Toute personne dont les affaires donnent lieu à une enquête autorisée par le paragraphe (1) a le droit d'être présente et d'être représentée par avocat tout au long de l'enquête, sauf si le président d'enquête nommé en vertu du paragraphe (2) en décide autrement, sur demande du ministre ou d'un témoin, pour tout ou partie de l'enquête, pour le motif que la présence de cette personne et de son avocat ou de l'un d'eux nuirait à la bonne conduite de l'enquête. 10 15

Droits des
personnes dont
les affaires
donnent lieu à
enquête

Copies

231.5 (1) Where any document is seized, inspected, examined or provided under sections 231.1 to 231.4, the person by whom it is seized, inspected or examined or to whom it is provided or any officer of the Department of National Revenue may make, or cause to be made, one or more copies thereof and any document purporting to be certified by the Minister or an authorized person to be a copy made pursuant to this section is evidence of the nature and content of the original document and has the same probative force as the original document would have if it had been proven in the ordinary way. 20 25 30 35

231.5 (1) Lorsque des documents sont saisis, inspectés, examinés ou produits en vertu des articles 231.1 à 231.4, la personne qui opère cette saisie ou fait cette inspection ou cet examen ou à qui est faite cette production ou tout fonctionnaire du ministère du Revenu national peut en faire ou en faire faire une ou plusieurs copies. Les documents présentés comme documents que le ministre ou une personne autorisée atteste être des copies faites conformément au présent article font preuve de la nature et du contenu des documents originaux et ont la même force probante qu'auraient ceux-ci si leur authenticité était prouvée de la façon usuelle. 20 25 30 35

Copies

Compliance

(2) No person shall hinder, molest or interfere with any person doing anything that he is authorized by or pursuant to subsection (1) or sections 231.1 to 231.4 to do or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other Act or law, every person shall, unless he is unable to do so, do everything he is required to do by or pursuant to subsection (1) or sections 231.1 to 231.4." 40 45

(2) Nul ne doit entraver, rudoyer ou contrecarrer une personne qui fait une chose qu'elle est autorisée à faire en vertu du paragraphe (1) ou des articles 231.1 à 231.4, ni empêcher ou tenter d'empêcher une personne de faire une telle chose. Nonobstant toute autre loi ou règle de droit, quiconque tenu par le paragraphe (1) ou les articles 231.1 à 231.4 de faire quelque chose doit le faire, sauf impossibilité." 35 40 45

Observation du
présent article

122. (1) Paragraph 232(1)(d) of the said Act is repealed and the following substituted therefor:

122. (1) L'alinéa 232(1)d) de la même loi est abrogé et remplacé par ce qui suit :

“Officer”

“(d) “officer” means a person acting under the authority conferred by or under sections 231.1 to 231.5; and”

(2) Subsections 232(2) to (6) of the said Act are repealed and the following substituted therefor:

Solicitor-client privilege defense

“(2) Where a lawyer is prosecuted for failure to comply with a requirement under section 231.2 with respect to information or a document, he shall be acquitted if he establishes to the satisfaction of the court

(a) that he, on reasonable grounds, believed that a client of his had a solicitor-client privilege in respect of the information or document; and

(b) that the lawyer communicated to the Minister, or some person duly authorized to act for the Minister, his refusal to comply with the requirement together with a claim that a named client of the lawyer had a solicitor-client privilege in respect of the information or document.

Seizure of certain documents where privilege claimed

(3) Where, pursuant to section 231.3, an officer is about to seize a document in the possession of a lawyer and the lawyer claims that a named client of his has a solicitor-client privilege in respect of that document, the officer shall, without inspecting, examining or making copies of the document,

(a) seize the document and place it, together with any other document in respect of which the lawyer at the same time makes the same claim on behalf of the same client, in a package and suitably seal and identify the package; and

(b) place the package in the custody of the sheriff of the district or county in which the seizure was made or, if the officer and the lawyer agree in writing on a person to act as custodian, in the custody of that person.

Examination of certain documents where privilege claimed

(3.1) Where, pursuant to sections 231.1 and 231.2, an officer is about to inspect or examine a document in the possession of a

«d) «fonctionnaire» s’entend d’une personne qui exerce les pouvoirs conférés par les articles 231.1 à 231.5;»

«fonctionnaire»

(2) Les paragraphes 232(2) à (6) de la même loi sont abrogés et remplacés par ce qui suit :

«(2) L’avocat poursuivi pour n’avoir pas obtempéré à une exigence de fourniture d’un renseignement ou de production d’un document prévue par l’article 231.2 doit être acquitté s’il démontre, à la satisfaction du tribunal, ce qui suit :

Secret professionnel invoqué en défense

a) pour des motifs raisonnables, il croyait qu’un de ses clients bénéficiait du privilège des communications entre client et avocat en ce qui concerne le renseignement ou le document;

b) il a indiqué au ministre ou à une personne dûment autorisée à agir pour celui-ci son refus d’obtempérer à cette exigence et a invoqué devant l’un ou l’autre le privilège des communications entre client et avocat dont bénéficiait un de ses clients nommément désigné en ce qui concerne le renseignement ou le document.

(3) Le fonctionnaire qui, conformément à l’article 231.3, est sur le point de saisir un document en la possession d’un avocat qui invoque le privilège des communications entre client et avocat au nom d’un de ses clients nommément désigné en ce qui concerne ce document, doit, sans inspecter ou examiner celui-ci ni en faire de copies,

Secret professionnel invoqué lors de la saisie de documents

a) d’une part, le saisir, ainsi que tout autre document pour lequel l’avocat invoque, en même temps, le même privilège au nom du même client, en faire un colis qu’il doit bien sceller et bien marquer;

b) d’autre part, confier le colis à la garde soit du shérif du district ou du comté où la saisie a été opérée, soit de la personne que le fonctionnaire et l’avocat conviennent par écrit de désigner comme gardien.

(3.1) Le fonctionnaire qui, conformément aux articles 231.1 et 231.2, est sur le point d’inspecter ou examiner un docu-

Secret professionnel invoqué lors de l’examen de documents

lawyer and the lawyer claims that a named client of his has a solicitor-client privilege in respect of that document, the officer shall not inspect or examine the document and the lawyer shall

- (a) place the document, together with any other document in respect of which the lawyer at the same time makes the same claim on behalf of the same client, in a package and suitably seal and identify the package or, if the officer and the lawyer agree, allow the pages of the document to be initialed and numbered or otherwise suitably identified; and
- (b) retain it and ensure that it is preserved until it is produced to a judge as required under this section and an order is issued under this section in respect of the document.

ment en la possession d'un avocat qui invoque le privilège des communications entre client et avocat au nom d'un de ses clients nommément désigné en ce qui concerne ce document, ne doit ni inspecter ni examiner ce document et l'avocat doit :

- a) d'une part, faire un colis du document ainsi que de tout autre document pour lequel il invoque, en même temps, le même privilège au nom du même client, bien sceller ce colis et bien le marquer, ou, si le fonctionnaire et l'avocat en conviennent, faire en sorte que les pages du document soient paraphées et numérotées ou autrement bien marquées;
- b) d'autre part, retenir le document et s'assurer de sa conservation jusqu'à ce que, conformément au présent article, le document soit produit devant un juge et une ordonnance rendue concernant le document.

Application to
judge

(4) Where a document has been seized and placed in custody under subsection (3) or is being retained under subsection (3.1), the client, or the lawyer on behalf of the client, may

- (a) within 14 days after the day the document was so placed in custody or commenced to be so retained apply, on three clear days notice of motion to the Deputy Attorney General of Canada, to a judge for an order
 - (i) fixing a day, not later than 21 days after the date of the order, and place for the determination of the question whether the client has a solicitor-client privilege in respect of the document, and
 - (ii) requiring the production of the document to the judge at that time and place;

(b) serve a copy of the order on the Deputy Attorney General of Canada and, where applicable, on the custodian within 6 days of the day on which it was made and, within the same time, pay to the custodian the estimated expenses of transporting the document to and from

(4) En cas de saisie et mise sous garde d'un document en vertu du paragraphe (3) ou de rétention d'un document en vertu du paragraphe (3.1), le client ou l'avocat au nom de celui-ci peut :

- a) dans les 14 jours suivant la date où le document a ainsi été mis sous garde ou a ainsi commencé à être retenu, après avis au sous-procureur général du Canada au moins trois jours francs avant qu'il soit procédé à cette requête, demander à un juge de rendre une ordonnance qui :
 - (i) d'une part, fixe la date — tom- bant au plus 21 jours après la date de l'ordonnance — et le lieu où il sera statué sur la question de savoir si le client bénéficie du privilège des communications entre client et avocat en ce qui concerne le document,
 - (ii) d'autre part, enjoint de produire le document devant le juge à la date et au lieu fixés;

b) signifier une copie de l'ordonnance au sous-procureur général du Canada et, le cas échéant, au gardien dans les 6 jours de la date où elle a été rendue et, dans ce même délai, payer au gardien le

Requête
présentée par
l'avocat ou son
client

Disposition of application	the place of hearing and of safeguarding it; and (c) if he has proceeded as authorized by paragraph (b), apply at the appointed time and place for an order determining the question.	montant estimé des frais de transport aller-retour du document entre le lieu où il est gardé ou retenu et le lieu de l'audition et des frais de protection du document; c) après signification et paiement, demander, à la date et au lieu fixés, une ordonnance où il soit statué sur la question.
	(5) An application under paragraph (4)(c) shall be heard <i>in camera</i> , and on the application (a) the judge may, if he considers it 10 necessary to determine the question, inspect the document and, if he does so, he shall ensure that it is repackaged and resealed; and (b) the judge shall decide the matter 15 summarily and, (i) if he is of the opinion that the client has a solicitor-client privilege in respect of the document, shall order the release of the document to the 20 lawyer, and (ii) if he is of the opinion that the client does not have a solicitor-client privilege in respect of the document, shall order 25 (A) that the custodian deliver the document to the officer or some other person designated by the Deputy Minister of National Revenue for Taxation, in the case of a 30 document that was seized and placed in custody under subsection (3), or (B) that the lawyer make the document available for inspection or 35 examination by the officer or other person designated by the Deputy Minister of National Revenue for Taxation, in the case of a document that was retained under subsection 40 (3.1), and he shall, at the same time, deliver concise reasons in which he shall identify the document without divulging the details thereof. 45	(5) Une requête présentée en vertu de 10 l'alinéa (4)c) doit être entendue à huis clos. Le juge qui en est saisi : a) peut, s'il l'estime nécessaire pour statuer sur la question, examiner le document et, dans ce cas, s'assure ensuite 15 qu'un colis du document soit refait et que ce colis soit rescellé; b) statue sur la question de façon sommaire : (i) s'il est d'avis que le client bénéficie 20 du privilège des communications entre client et avocat en ce qui concerne le document, il ordonne la restitution du document à l'avocat ou libère l'avocat de son obligation de le 25 retenir, selon le cas; (ii) s'il est de l'avis contraire, il ordonne : (A) au gardien de remettre le document au fonctionnaire ou à quelque 30 autre personne désignée par le sous-ministre du Revenu national pour l'impôt, en cas de saisie et mise sous garde du document en vertu du paragraphe (3), 35 (B) à l'avocat de permettre au fonctionnaire ou à l'autre personne désignée par le sous-ministre du Revenu national pour l'impôt d'inspecter ou examiner le document, en 40 cas de rétention de celui-ci en vertu du paragraphe (3.1). Le juge motive brièvement sa décision en indiquant de quel document il s'agit sans en révéler les détails. 45
Order to deliver or make available	(6) Where a document has been seized and placed in custody under subsection (3)	(6) En cas de saisie et mise sous garde d'un document en vertu du paragraphe (3)

Ordonnance sur requête de l'avocat ou de son client

Ordonnance sur requête du procureur général du Canada

or where a document is being retained under subsection (3.1) and a judge, on the application of the Attorney General of Canada, is satisfied that neither the client nor the lawyer has made an application under paragraph (4)(a) or, having made that application, neither the client nor the lawyer has made an application under paragraph (c) thereof, he shall order

(a) that the custodian deliver the document to the officer or some other person designated by the Deputy Minister of National Revenue for Taxation, in the case of a document that was seized and placed in custody under subsection (3); 15 or

(b) that the lawyer make the document available for inspection or examination by the officer or other person designated by the Deputy Minister of National Revenue for Taxation, in the case of a document that was retained under subsection (3.1).”

(3) Subsection 232(10) of the said Act is repealed and the following substituted therefor:

Directions

“(10) Where any question arises as to the course to be followed in connection with anything done or being done under this section, other than subsection (2), (3) or (3.1), and there is no direction in this section with respect thereto, a judge may give such direction with regard thereto as, in his opinion, is most likely to carry out the object of this section of allowing solicitor-client privilege for proper purposes.”

(4) Subsection 232(12) of the said Act is repealed and the following substituted therefor:

Idem

“(12) No officer shall inspect, examine or seize a document in the possession of a lawyer without giving him a reasonable opportunity of making a claim under this section.”

ou de rétention d'un document en vertu du paragraphe (3.1), et s'il est convaincu, sur requête du procureur général du Canada, que ni le client ni l'avocat n'a présenté de requête en vertu de l'alinéa (4)a) ou que, en ayant présenté une, ni l'un ni l'autre n'a présenté de requête en vertu de l'alinéa (4)c), le juge saisi ordonne :

a) au gardien de remettre le document au fonctionnaire ou à quelque autre personne désignée par le sous-ministre du Revenu national pour l'impôt, en cas de saisie et mise sous garde du document en vertu du paragraphe (3);

b) à l'avocat de permettre au fonctionnaire ou à l'autre personne désignée par le sous-ministre du Revenu national pour l'impôt d'inspecter ou examiner le document, en cas de rétention de celui-ci en vertu du paragraphe (3.1).»

(3) Le paragraphe 232(10) de la même loi est abrogé et remplacé par ce qui suit :

«(10) Si aucune mesure n'est prévue au présent article sur une question à résoudre en rapport avec une chose accomplie ou en voie d'accomplissement selon le présent article — à l'exception des paragraphes (2), (3) et (3.1) —, un juge peut décider des mesures qu'il estime les plus aptes à atteindre le but du présent article, à savoir, accorder le privilège des communications entre client et avocat à des fins pertinentes.»

Mesures non prévues

(4) Le paragraphe 232(12) de la même loi est abrogé et remplacé par ce qui suit :

«(12) Aucun fonctionnaire ne peut inspecter, examiner ou saisir un document en la possession d'un avocat sans donner à celui-ci une occasion raisonnable d'invoquer le privilège des communications entre client et avocat en vertu du présent article.»

Idem

Waiver of claim
of privilege

(5) Subsection 232(14) of the said Act is repealed and the following substituted therefor:

“(14) Where a lawyer has, for the purpose of subsection (2), (3) or (3.1), made a claim that a named client of his has a solicitor-client privilege in respect of information or a document, he shall at the same time communicate to the Minister or some person duly authorized to act for the Minister the address of the client last known to him so that the Minister may endeavour to advise the client of the claim of privilege that has been made on his behalf and may thereby afford him an opportunity, if it is practicable within the time limited by this section, of waiving the claim of privilege before the matter is to be decided by a judge or other tribunal.”

Compliance

(15) No person shall hinder, molest or interfere with any person doing anything that he is authorized to do by or pursuant to this section or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other Act or law, every person shall, unless he is unable to do so, do everything he is required to do by or pursuant to this section.”

Idem

“(2) Every person who has failed to comply with or contravened subsection 116(3), 127(3.1) or (3.2), 153(1) or 227(5), or any of sections 230 to 232 is guilty of an offence and, in addition to any penalty otherwise provided, is liable on summary conviction to”

124. (1) The heading immediately preceding section 245 of the said Act is repealed and the following substituted therefor:

“TAX AVOIDANCE”

(2) Section 245 of the said Act is further amended by adding thereto, immediately

(5) Le paragraphe 232(14) de la même loi est abrogé et remplacé par ce qui suit :

«(14) L’avocat qui, pour l’application du paragraphe (2), (3) ou (3.1), invoque, au nom d’un de ses clients nommé désigné, le privilège des communications entre client et avocat en ce qui concerne un renseignement ou un document, doit en même temps indiquer la dernière adresse connue de ce client au ministre ou à quelque personne dûment autorisée à agir au nom de celui-ci, afin que le ministre puisse, d’une part, chercher à informer le client du privilège qui est invoqué en son nom et, d’autre part, donner au client l’occasion, si la chose est matériellement possible dans le délai mentionné au présent article, de renoncer à invoquer le privilège avant que la question soit soumise à la décision d’un juge ou d’un autre tribunal.

Renonciation
au privilège

(15) Nul ne doit entraver, rudoyer ou contrecarrer une personne qui fait une chose qu’elle est autorisée à faire en vertu du présent article, ni empêcher ou tenter d’empêcher une personne de faire une telle chose. Nonobstant toute autre loi ou règle de droit, quiconque tenu par le présent article de faire quelque chose doit le faire, sauf impossibilité.»

Observation du
présent article

123. Le passage du paragraphe 238(2) qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :

«(2) Quiconque a omis d’observer ou a enfreint le paragraphe 116(3), 127(3.1) ou (3.2), 153(1), 227(5) ou les articles 230 à 232 est coupable d’une infraction et, en plus de toute autre peine prévue par ailleurs, est passible sur déclaration sommaire de culpabilité»

Idem

124. (1) L’intertitre qui précède l’article 245 de la même loi est abrogé et remplacé par ce qui suit :

«ÉVITEMENT FISCAL»

(2) L’article 245 de la même loi est modifié par insertion, après le paragraphe (1), de ce qui suit :

after subsection (1) thereof, the following subsection:

Idem

“(1.1) Where it may reasonably be considered that one of the purposes of a series of transactions or events is that an individual convert into a capital gain from the disposition of property an amount that would

(a) but for one or more of such transactions or events in the series, or

(b) on a disposition by him of property in respect of which the property is a substituted property

otherwise have been received by the individual and included in computing his income under paragraph 3(a), no amount shall be deducted by the individual under section 110.6 in respect of that capital gain.”

(3) Subsection (1) is applicable after May 20 23, 1985.

(4) Subsection (2) is applicable to a series of transactions or events commencing after November 21, 1985.

125. (1) Subsection 247(1) of the said Act is repealed and the following substituted therefor:

Dividend stripping

“**247.** (1) Where an amount is received or an amount becomes receivable by a taxpayer in a taxation year

(a) as a consequence of the disposition or exchange of any property,

(b) as a consequence of a corporation having

(i) redeemed, cancelled or acquired any shares of any class of its capital stock,

(ii) reduced the paid-up capital of shares of any class of its capital stock, or

(iii) converted any shares of any class of its capital stock into shares of another class of its capital stock or into an obligation of the corporation, or

(c) otherwise, as an amount that would, but for this section, be exempt income

«(1.1) Un particulier ne peut déduire aucun montant en vertu de l'article 110.6 au titre d'un gain en capital sur la disposition d'un bien s'il est raisonnable de considérer qu'un des objets d'une série d'opérations ou d'événements a consisté à permettre à ce particulier de convertir en un tel gain en capital un montant qui aurait été reçu par le particulier et inclus dans le calcul de son revenu en vertu de l'alinéa 3a)

a) n'eût été une ou plusieurs opérations ou événements de la série; ou

b) sur une disposition par ce particulier d'un bien à l'égard duquel le bien est un bien substitué.»

(3) Le paragraphe (1) s'applique après le 23 mai 1985.

(4) Le paragraphe (2) s'applique aux séries d'opérations ou d'événements commençant après le 21 novembre 1985.

125. (1) Le paragraphe 247(1) de la même loi est abrogé et remplacé par ce qui suit :

«**247.** (1) Lorsqu'un montant est reçu ou devient à recevoir par un contribuable dans une année d'imposition

a) soit en conséquence de la disposition ou de l'échange d'un bien,

b) soit en conséquence :

(i) du rachat, de l'annulation ou de l'acquisition, par une corporation, d'actions d'une catégorie de son capital-actions,

(ii) de la réduction par une corporation du capital versé au titre des actions d'une catégorie de son capital-actions, ou

(iii) de la conversion par une corporation d'actions d'une catégorie de son capital-actions en actions d'une autre catégorie de son capital-actions ou en une créance de la corporation,

Idem

Dépouillement de surplus

as part of a transaction or event effected or to be effected after May 23, 1985 or as part of a series of transactions or events each of which is effected or to be effected after that day and it can reasonably be considered that one of the purposes thereof was to effect a significant reduction of, or disappearance of, assets of a corporation at any time in a manner such that the whole or any part of any tax that might otherwise have been or have become payable under this Act in consequence of any distribution of property of a corporation has been or will be avoided, such part of the amount so received or receivable by the taxpayer as is reasonable in the circumstances, having regard to the amount of tax that, but for this section, would have been or would be avoided, shall

(d) in the case of a taxpayer who is an individual or a non-resident person, be included in computing his income for the year as a taxable dividend received by him in the year; and

(e) in the case of any other taxpayer, be included in computing his income for the year as income, other than a taxable dividend, from property.”

(2) Paragraph 247(2)(b) of the said Act is repealed and the following substituted therefor:

“(b) that one of the main reasons for such separate existence in the year is to reduce the amount of taxes that would otherwise be payable under this Act or to increase the refundable investment tax credit under section 127.1.”

(3) Subsection 247(3) of the said Act is repealed and the following substituted therefor:

“(3) On an appeal from an assessment made pursuant to a direction under subsection (2), the Tax Court of Canada or the Federal Court may

(a) confirm the direction;

c) soit par ailleurs, comme montant qui, sans le présent article, serait un revenu exonéré,

dans le cadre de quelque opération ou événement effectué ou à effectuer après le 23 mai 1985 ou dans le cadre d’une série d’opérations ou événements dont chacun est effectué ou à effectuer après cette date et qu’il est raisonnable de considérer qu’un des objets de cette opération, de cet événement ou de cette série consiste à réduire de façon sensible ou à supprimer l’actif d’une corporation à une date quelconque, de façon que tout ou partie d’un impôt qui, par suite d’une répartition de biens d’une corporation, aurait été payable par ailleurs en vertu de la présente loi ou le serait devenu a été évité ou le sera, la partie du montant ainsi reçu ou à recevoir par le contribuable qui est raisonnable en l’espèce compte tenu du montant d’impôt qui, n’eût été le présent article, aurait été évité ou le serait, doit être inclus dans le calcul du revenu du contribuable pour l’année :

d) à titre de dividende imposable que celui-ci a reçu dans l’année, dans le cas où le contribuable est un particulier ou une personne non résidente;

e) pour tout autre contribuable, à titre de revenu, à l’exclusion d’un dividende imposable, tiré d’un bien.»

(2) L’alinéa 247(2)b) de la même loi est abrogé et remplacé par ce qui suit :

«b) que l’un des principaux motifs de cette existence distincte dans l’année consiste à réduire le montant des impôts qui seraient payables par ailleurs en vertu de la présente loi ou à augmenter le crédit d’impôt à l’investissement remboursable prévu à l’article 127.1.»

(3) Le paragraphe 247(3) de la même loi est abrogé et remplacé par ce qui suit :

“(3) Sur appel d’une cotisation établie conformément à un ordre visé au paragraphe (2), la Cour canadienne de l’impôt ou la Cour fédérale peut :

a) soit confirmer l’ordre;

Appeal

Appel

(b) vacate the direction if it determines that none of the main reasons for the separate existence of the two or more corporations is to reduce the amount of tax that would otherwise be payable under this Act; or

(c) vary the direction and refer the matter back to the Minister for reassessment."

(4) Subsection (2) is applicable with 10 respect to property acquired and expenditures made after May 23, 1985.

126. (1) The definitions "indexed security", "indexed security investment plan", "participant" and "registered home ownership savings plan" in subsection 248(1) of the said Act are repealed.

(2) The definition "cost amount" in subsection 248(1) of the said Act is amended by adding the word "and" at the end of paragraph (e) thereof and by repealing paragraph (e.1) thereof.

(3) The definition "dividend" in subsection 248(1) of the said Act is repealed and the following substituted therefor:

"dividend" includes a stock dividend;"

(4) Subsection 248(1) of the said Act is amended by adding thereto, in alphabetical order within the subsection, the following definitions:

"home relocation loan" means a loan received by an individual or his spouse in circumstances where he has commenced employment at a location in Canada (in this definition referred to as his "new work location") and by reason thereof has moved from the residence in Canada at which, before the move, he ordinarily resided (in this definition referred to as his "old residence") to a residence in Canada at which, after the move, he ordinarily resided (in this definition referred to as his "new residence") if

(a) the distance between his old residence and his new work location is at least 40 kilometres greater than the

b) soit l'annuler si elle établit qu'aucun des principaux motifs de l'existence distincte des deux corporations ou plus ne consiste à réduire le montant de l'impôt qui serait payable par ailleurs en vertu de la présente loi;

c) soit modifier l'ordre et renvoyer l'affaire au ministre pour établissement d'une nouvelle cotisation.»

(4) Le paragraphe (2) s'applique aux biens acquis et aux dépenses faites après le 23 mai 1985.

126. (1) Les définitions de «participant», «régime de placements en titres indexés», «régime enregistré d'épargne-logement» et «titre indexé», au paragraphe 248(1) de la même loi, sont abrogées.

(2) La définition de «coût indiqué», au paragraphe 248(1) de la même loi, est modifiée par abrogation de l'alinéa e.1).

(3) La définition de «dividende», au paragraphe 248(1) de la même loi, est abrogée et remplacée par ce qui suit :

«dividende» comprend un dividende en actions;»

(4) Le paragraphe 248(1) de la même loi est modifié par insertion, suivant l'ordre alphabétique, de ce qui suit :

«corporation exploitant une petite entreprise» s'entend d'une corporation qui, à une date donnée, est une corporation privée dont le contrôle est canadien et dont la totalité ou presque des éléments d'actif sont, à cette date,

a) soit utilisés dans une entreprise que la corporation ou une corporation contrôlée par celle-ci exploite activement au Canada,

b) soit constitués d'actions du capital-actions d'une ou de plusieurs corporations exploitant une petite entreprise rattachées à cette date à la corporation (au sens du paragraphe 186(4) selon l'hypothèse que ces corporations exploitant une petite entreprise sont, à cette date, des corporations payantes

"dividend"
«dividende»

«dividende»
"dividend"

"home
relocation loan"
«prêt à la
réinstallation»

«corporation
exploitant une
petite
entreprise»
"small business
corporation"

“oil or gas well”
«puits de pétrole ou de gaz»

“small business corporation”
«corporation exploitant une petite entreprise»

“stock dividend”
«dividende en actions»

distance between his new residence and his new work location,
(b) the loan is used to acquire a dwelling for the habitation of the individual that is his new residence, 5
(c) the loan is received in the circumstances described in subsection 80.4(1), and
(d) the loan is designated by the individual to be a home relocation loan, but in no case shall more than one loan in respect of a particular move, or more than one loan at any particular time, be designated as a home relocation loan by the individual 15
al;

“oil or gas well” means any well (other than an exploratory probe or a well drilled from below the surface of the earth) drilled for the purpose of producing petroleum or natural gas or of determining the existence, location, extent or quality of a natural accumulation of petroleum or natural gas; 20

“small business corporation” at any particular time means a particular corporation that is a Canadian-controlled private corporation all or substantially all of the assets of which were at that time 25

(a) used in an active business carried on in Canada by the particular corporation or by a corporation controlled by it, 30

(b) shares of the capital stock of one or more small business corporations that were at that time connected with the particular corporation (within the meaning of subsection 186(4) on the assumption that such small business corporation was at that time a “payer corporation” within the meaning of that subsection) or a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by such a connected corporation, or 40
(c) assets described in paragraphs (a) and (b); 45

“stock dividend” includes any dividend paid by a corporation to the extent that it is paid by the issuance of shares of 50

au sens du même paragraphe) ou d'obligations, effets, billets, *mortgages*, hypothèques ou titres semblables émis par ces corporations rattachées, 5
c) soit visés aux alinéas a) et b); 5

«dividende en actions» comprend un dividende versé par une corporation, dans la mesure où il est versé par l'émission d'actions d'une catégorie du capital-actions de la corporation payeuse; 10

«prêt à la réinstallation» s'entend d'un prêt reçu par un particulier ou par son conjoint dans une situation où l'un ou l'autre commence à exercer un emploi dans un lieu au Canada — appelé «nouveau lieu de travail» à la présente définition — qui l'oblige à déménager de la résidence au Canada où il résidait habituellement avant le déménagement — appelée «ancienne résidence» à la présente définition — et à emménager dans la résidence au Canada où il réside habituellement après le déménagement — appelée «nouvelle résidence» à la présente définition —, 25

a) si la distance entre son ancienne résidence et son nouveau lieu de travail est d'au moins 40 kilomètres supérieure à celle qui sépare sa nouvelle résidence de son nouveau lieu de travail; 30

b) si le prêt sert, pour le particulier, à acquérir une habitation qui constitue sa nouvelle résidence; 35

c) si le prêt est reçu dans une situation visée au paragraphe 80.4(1); et 40

d) si le particulier indique qu'il s'agit d'un prêt à la réinstallation; toutefois, le particulier ne peut, en aucun cas, indiquer comme prêt à la réinstallation plus d'un prêt pour un déménagement donné ou plus d'un prêt à une date donnée; 45

«puits de pétrole ou de gaz» s'entend d'un puits (à l'exclusion d'un trou de sonde ou d'un puits foré sous la surface terrestre) foré en vue de produire du pétrole ou du gaz naturel ou en vue de déterminer l'existence, l'emplacement, l'étendue ou la qualité d'un gisement naturel de pétrole ou de gaz naturel; 50

«dividende en actions»
“stock dividend”

«prêt à la réinstallation»
“home relocation loan”

«puits de pétrole ou de gaz»
“oil or gas well”

any class of the capital stock of the payer corporation;"

(5) Subsection 248(5) of the said Act is repealed and the following substituted therefor:

"(5) For the purposes of this Act, other than paragraph 98(1)(a),

(a) where a person has disposed of or exchanged a particular property and acquired other property in substitution therefor and subsequently, by one or more further transactions, has effected one or more further substitutions, the property acquired by any such transaction shall be deemed to have been substituted for the particular property; and

(b) any share received as a stock dividend on another share of the capital stock of a corporation shall be deemed to be property substituted for that other share."

(6) Section 248 of the said Act is amended by adding thereto the following subsections:

"(10) For the purposes of this Act, where there is a reference to a series of transactions or events, the series shall be deemed to include any related transactions or events completed in contemplation of the series.

(11) Interest computed at a prescribed rate under any of subsections 159(7), 160.1(1), 161(1), (2) or (11), 164(3) to (4), 182(2), 185(2), 187(2), 189(7), 190.23, 191(2), 193(3), 195(3), 202(5), 227(8) or (9) shall be compounded on March 31, June 30, September 30 and December 31 in each taxation year, and for greater certainty, in computing interest at any time under any such subsection, there shall be included in each amount in respect of which interest is computed under that subsection the amount of any interest compounded in respect of the amount, but not paid, before that time."

(7) Subsections (1) and (2) are applicable to the 1986 and subsequent taxation years.

(8) Subsection (3) is applicable with respect to dividends paid after May 23, 1985

(5) Le paragraphe 248(5) de la même loi est abrogé et remplacé par ce qui suit :

«(5) Pour l'application de la présente loi, à l'exception de l'alinéa 98(1)a),

a) lorsqu'une personne dispose d'un bien donné ou l'échange et acquiert un autre bien en remplacement et que, par la suite, par une ou plusieurs autres opérations, elle effectue une ou plusieurs autres substitutions, le bien acquis par cette opération est réputé substitué au bien donné; et

b) une action reçue à titre de dividende en actions sur une autre action du capital-actions d'une corporation est réputée être un bien substitué à cette autre action.»

(6) L'article 248 de la même loi est modifié par adjonction de ce qui suit :

«(10) Pour l'application de la présente loi, une série d'opérations ou d'événements, lorsqu'il y est renvoyé, est réputée comprendre les opérations et événements liés terminés en vue de réaliser la série.

(11) Les intérêts calculés au taux prescrit, prévus à l'un des paragraphes 159(7), 160.1(1), 161(1), (2) ou (11), 164(3) à (4), 182(2), 185(2), 187(2), 189(7), 190.23, 191(2), 193(3), 195(3), 202(5) ou 227(8) ou (9), sont composés aux 31 mars, 30 juin, 30 septembre et 31 décembre de chaque année d'imposition; il est entendu que dans le calcul, à une date quelconque, des intérêts prévus à l'un de ces paragraphes, le montant des intérêts composés sur chaque somme sur laquelle les intérêts sont calculés en vertu de ce paragraphe est ajouté à cette somme — dans la mesure où celle-ci est impayée — avant cette date.»

(7) Les paragraphes (2) et (4) s'appliquent aux années d'imposition 1986 et suivantes.

(8) Le paragraphe (3) s'applique aux dividendes versés après le 23 mai 1985, à l'exclu-

Substituted
property

Bien substitués

Series of
transactions

Série d'opéra-
tions

Compound
interest

Intérêts
composés

other than dividends declared on or before that day.

(9) The definition "home relocation loan" in subsection 248(1) of the said Act, as enacted by subsection (4), is applicable to loans made in respect of a commencement of employment at a new work location after May 23, 1985.

(10) The definition "oil or gas well" in subsection 248(1) of the said Act, as enacted by subsection (4), is applicable to taxation years ending after March, 1985.

(11) The definition "small business corporation" in subsection 248(1) of the said Act, as enacted by subsection (4), is applicable to the 1985 and subsequent taxation years.

(12) The definition "stock dividend" in subsection 248(1) of the said Act, as enacted by subsection (4), is applicable with respect to dividends paid after May 23, 1985 other than dividends declared on or before that day.

(13) Subsection (5) is applicable with respect to exchanges of property made after November 21, 1985 and shares received as stock dividends after November 21, 1985 other than shares received as payment of a stock dividend declared on or before that date.

(14) Subsection 248(11) of the said Act, as enacted by subsection (6), shall come into force on a day to be fixed by proclamation, except that no amount shall be compounded under subsection 248(11) of the said Act before that day.

127. (1) Subsection 256(6) of the said Act repealed and the following substituted therefor:

"(6) For the purposes of any provision of this Act, where a corporation (in this subsection referred to as the "controlled corporation") would, but for this subsection, be regarded as having been controlled by a person or partnership (in this subsection referred to as the "controller") at a particular time and it is established that

sion des dividendes déclarés à cette date ou avant.

(9) La définition de «prêt à la réinstallation», au paragraphe 248(1) de la même loi, édictée par le paragraphe (4), s'applique aux prêts consentis à des particuliers qui commencent à exercer un emploi dans un nouveau lieu de travail après le 23 mai 1985.

(10) La définition de «puits de pétrole ou de gaz», au paragraphe 248(1) de la même loi, édictée par le paragraphe (4), s'applique aux années d'imposition se terminant après mars 1985.

(11) La définition de «corporation exploitant une petite entreprise», au paragraphe 248(1) de la même loi, édictée par le paragraphe (4), s'applique aux années d'imposition 1985 et suivantes.

(12) La définition de «dividende en actions», au paragraphe 248(1) de la même loi, édictée par le paragraphe (4), s'applique aux dividendes en actions versés après le 23 mai 1985, à l'exclusion des dividendes en actions déclarés à cette date ou avant.

(13) Le paragraphe (5) s'applique aux échanges de biens effectués après le 21 novembre 1985 et aux actions reçues comme dividendes en actions après le 21 novembre 1985, à l'exclusion des actions reçues en paiement d'un dividende en actions déclaré à cette date ou avant.

(14) Le paragraphe 248(11) de la même loi, édicté par le paragraphe (6), entre en vigueur à la date fixée par proclamation; toutefois, les intérêts ne sont pas composés en vertu du paragraphe 248(11) de la même loi avant cette date.

127. (1) Le paragraphe 256(6) de la même loi est abrogé et remplacé par ce qui suit :

"(6) Pour l'application de toute disposition de la présente loi, une corporation — appelée «corporation contrôlée» au présent paragraphe — qui serait considérée, n'eût été le présent paragraphe, comme ayant été contrôlée à une date donnée par une personne ou société — appelée «entité dominante» au présent paragraphe — est

Corporations
réputées non
contrôlées

(a) there was in effect at the particular time an agreement or arrangement enforceable according to the terms thereof, under which, upon the satisfaction of a condition or the happening of an event that it is reasonable to expect will be satisfied or happen, the controlled corporation will

- (i) cease to be controlled by the controller, and
- (ii) become controlled by a person or group of persons, with whom or with each of the members of which, as the case may be, the controller was at the particular time dealing at arm's length, and

(b) the purpose for which the controlled corporation was at the particular time so controlled was the safeguarding of rights or interests of the controller in respect of

- (i) any indebtedness of the controller the whole or any part of the principal amount of which was outstanding at the particular time, or
- (ii) any shares of the capital stock of the controlled corporation that were owned by the controller at the particular time and that were, under the agreement or arrangement, to be redeemed by the controlled corporation or purchased by the person or group of persons referred to in subparagraph (a)(ii),

the controlled corporation shall be deemed, for the purposes of that provision, not to have been controlled by the controller at the particular time."

(2) All that portion of subsection 256(7) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"(7) For the purposes of subsections 66(11) and (11.1), 87(2.1), 88(1.1) and (1.2) and sections 111 and 127"

(3) Subsection 256(8) of the said Act is repealed and the following substituted therefor:

"(8) Where at any time a taxpayer has acquired a right referred to in paragraph

réputée ne pas avoir été contrôlée par l'entité dominante à la date donnée, s'il est établi à la fois :

a) qu'un contrat ou arrangement exécutable selon ses termes mêmes était en vigueur à la date donnée, qui stipulait qu'à la réalisation d'une condition ou d'un événement à laquelle il est raisonnable de s'attendre, la corporation contrôlée :

- (i) d'une part, cesserait d'être contrôlée par l'entité dominante,
- (ii) d'autre part, deviendrait contrôlée par une personne ou un groupe de personnes, avec laquelle ou avec chacune desquelles, selon le cas, l'entité dominante n'avait aucun lien de dépendance à la date donnée;

b) que la raison pour laquelle la corporation contrôlée était ainsi contrôlée à la date donnée était la sauvegarde des droits de l'entité dominante

- (i) afférents à tout titre de créance de l'entité dominante dont tout ou partie du principal était impayé à la date donnée, ou
- (ii) afférents à des actions du capital-actions de la corporation contrôlée qui appartenaient à l'entité dominante à la date donnée et qui, selon le contrat ou l'arrangement, devraient être achetées par l'entité dominante ou achetées par la personne ou le groupe de personnes visé au sous-alinéa a)(ii)."

(2) Le passage du paragraphe 256(7) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

"(7) Pour l'application des paragraphes 66(11) et (11.1), 87(2.1), 88(1.1) et (1.2) et des articles 111 et 127,"

(3) Le paragraphe 256(8) de la même loi est abrogé et remplacé par ce qui suit :

"(8) Un contribuable qui a acquis, à une date quelconque, un droit visé à l'alinéa

Control deemed not to be acquired

Deemed acquisition of shares

Contrôle réputé non acquis

Actions réputées acquises

251(5)(b) with respect to shares and it can reasonably be concluded that one of the main purposes of the acquisition was to avoid

(a) any limitation on the deductibility of any non-capital loss, net capital loss, farm loss or any expense referred to in subsection 66(11) or (11.1),

(b) the application of subsection 111(5.1) or (5.2), or

(c) the application of paragraph (j) or (k) of the definition "investment tax credit" in subsection 127(9),

in determining whether control of the corporation has been acquired for the purposes of subsections 66(11) and (11.1) and sections 111 and 127, he shall be deemed to have acquired the shares at that time."

(4) Subsection (1) is applicable to 1985 and subsequent taxation years.

(5) Subsection (2) is applicable after May 23, 1985.

(6) Subsection (3) is applicable with respect to the acquisition of rights occurring after May 23, 1985.

128. (1) The said Act is further amended by adding thereto, immediately after section 256 thereof, the following section:

"**257.** Except as specifically otherwise provided, where an amount or a number is required under this Act to be determined or calculated by or in accordance with an algebraic formula, if the amount or number when so determined or calculated would, but for this subsection, be a negative amount or number, it shall be deemed to be nil."

(2) Subsection (1) is applicable to the 1985 and subsequent taxation years.

129. (1) Section 259 of the said Act is repealed and the following substituted therefor:

"**259.** (1) For the purposes of subsection 146(6), (10) and (10.1), 146.2(12), (13) and (14) and 146.3(7), (8) and (9) and Parts X, X.2, XI and XI.1, where at any time a taxpayer described in section

251(5)(b) affèrent à des actions est réputé avoir acquis les actions à cette date afin de déterminer si pour l'application des paragraphes 66(11) et (11.1) et des articles 111 et 127 le contrôle de la corporation a été acquis, s'il est raisonnable de conclure que l'un des principaux motifs de l'acquisition du droit consistait à éviter :

a) une restriction à la déductibilité d'une perte autre qu'une perte en capital, d'une perte en capital nette, d'une perte agricole ou de frais visés au paragraphe 66(11) ou (11.1);

b) l'application du paragraphe 111(5.1) ou (5.2); ou

c) l'application de l'alinéa j) ou k) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9).»

(4) Le paragraphe (1) s'applique aux 20 années d'imposition 1985 et suivantes.

(5) Le paragraphe (2) s'applique après le 23 mai 1985.

(6) Le paragraphe (3) s'applique aux acquisitions de droits faites après le 23 mai 1985.

128. (1) La même loi est modifiée par insertion, après l'article 256, de ce qui suit :

"**257.** Sauf disposition contraire, tout montant ou nombre dont la présente loi prévoit le calcul selon une formule algébrique et qui, une fois calculé, est négatif doit être considéré comme égal à zéro."

(2) Le paragraphe (1) s'applique aux années d'imposition 1985 et suivantes.

129. (1) L'article 259 de la même loi est abrogé et remplacé par ce qui suit :

"**259.** (1) Pour l'application des paragraphes 146(6), (10) et (10.1), 146.2(12), (13) et (14) et 146.3(7), (8) et (9) et des parties X, X.2, XI et XI.1, lorsque, à une date quelconque, un contribuable visé à

Negative amounts

Résultats négatifs

Proportional holdings in trust property

Partie déterminée d'un bien de fiducie

205 acquires, holds or disposes of an interest in a qualified trust and the trust elects for any period that includes that time to have the provisions of this subsection apply, the taxpayer shall be deemed

- (a) not to acquire, hold or dispose of at that time, as the case may be, that interest in the trust;
- (b) to hold at that time that proportion (referred to in this subsection as his "specified portion") of each property of the trust that the number of units of the trust held by the taxpayer at that time is of the number of units of the trust outstanding at that time;
- (c) to acquire his specified portion of each property of the trust at the later of
 - (i) the date the trust acquires the property, and
 - (ii) the date the taxpayer acquires the interest in the trust,
 and the fair market value, at the time of acquisition by the taxpayer, of his specified portion of the property shall be deemed to be the fair market value of his specified portion of the property at the time of its acquisition by the trust; and
- (d) to dispose of his specified portion of each property of the trust at the earlier of
 - (i) the date the trust disposes of the property, and
 - (ii) the date the taxpayer disposes of the interest in the trust
 for proceeds equal to,
 - (iii) where subparagraph (i) applies, the proceeds of disposition to the trust of his specified portion of the property, and
 - (iv) where subparagraph (ii) applies, the fair market value, immediately before the disposition of the interest, of his specified portion of the property.

l'article 205 acquiert ou détient une participation dans une fiducie admissible, ou dispose d'une telle participation, et que la fiducie choisit, pour une période quelconque qui comprend cette date, de se prévaloir du présent paragraphe, le contribuable est réputé :

- a) ne pas acquérir cette participation dans la fiducie, ne pas la détenir ou ne pas en disposer, selon le cas, à cette date;
- b) détenir à cette date la partie — appelée «partie déterminée» au présent paragraphe — de chaque bien de la fiducie représentée par le rapport entre le nombre d'unités de la fiducie que le contribuable détient à cette date et le nombre d'unités de la fiducie en circulation à cette date;
- c) acquérir la partie déterminée de chaque bien de la fiducie au dernier en date des jours suivants :
 - (i) le jour où la fiducie acquiert le bien,
 - (ii) le jour où le contribuable acquiert la participation dans la fiducie,
 et la juste valeur marchande, à la date de son acquisition par le contribuable, de la partie déterminée du bien est réputée correspondre à la juste valeur marchande de la partie déterminée du bien à la date de son acquisition par la fiducie; et
- d) disposer de la partie déterminée de chaque bien de la fiducie au premier en date des jours suivants :
 - (i) le jour où la fiducie dispose du bien,
 - (ii) le jour où le contribuable dispose de la participation dans la fiducie,
 pour un produit égal :
 - (iii) au produit de disposition pour la fiducie de la partie déterminée du bien, dans le cas où le sous-alinéa (i) s'applique,
 - (iv) à la juste valeur marchande, immédiatement avant la disposition de la participation, de la partie déterminée du bien, dans le cas où le sous-alinéa (ii) s'applique.

Election

(2) The election by a trust under subsection (1) shall be made by the trust filing a prescribed form with the Minister and shall be applicable in respect of the period commencing 15 months before the date of filing thereof (or such later time as the trust may designate in its election) and ending at such time as the election is revoked by the trust filing with the Minister a notice of revocation (or at such earlier time within the 15 month period immediately preceding the date on which the notice of revocation is filed with the Minister as the trust may designate in its notice of revocation). 15

“Qualified trust” defined

(3) In this section, “qualified trust” means a trust, other than a registered investment or a trust that is prescribed to be a small business investment trust, where

(a) each trustee thereof is a corporation 20 that is licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada the business of offering to the public its services as trustee or a person who is a trustee of a trust 25 governed by a registered pension fund or plan;

(b) the interests of the beneficiaries thereunder are described by reference to units of the trust that are identical in all 30 respects and any difference between the interest in the trust of each beneficiary and the interest in the trust of each other beneficiary is dependent solely on the difference in the number of units 35 held by such beneficiaries;

(c) it has never borrowed money;

(d) it has never accepted deposits; and

(e) it complies with prescribed conditions.” 40

Choix

(2) Une fiducie visée au paragraphe (1) fait le choix y prévu en produisant un formulaire prescrit auprès du ministre; ce choix s'applique à la période commençant 5 15 mois avant la date où il est produit (ou 5 à une date ultérieure que la fiducie indique dans son choix) et se terminant à la date où la fiducie le révoque en produisant un avis de révocation auprès du ministre (ou à une date antérieure que la fiducie indique 10 dans son avis de révocation et qui tombe dans la période de 15 mois précédant la date de production de cet avis auprès du ministre).

Définition de «fiducie admissible»

(3) Pour l'application du présent article, 15 «fiducie admissible» s'entend d'une fiducie — à l'exclusion d'un placement enregistré et d'une fiducie qui est, par règlement, une fiducie de placement dans des petites entreprises — qui répond aux 20 conditions suivantes :

- a) chacun de ses fiduciaires est soit une corporation titulaire d'un permis ou autorisée par ailleurs en vertu de la législation fédérale ou d'une province 25 à exploiter au Canada une entreprise d'offre au public de services de fiduciaire, soit une personne qui est fiduciaire d'une fiducie régie par quelque caisse ou régime enregistré de pen- 30 sions;
- b) les participations de ses bénéficiaires sont fonction des unités de la fiducie identiques à tous égards, toute différence entre la participation dans 35 la fiducie d'un bénéficiaire et celle de chacun des autres bénéficiaires ne pouvant être qu'une différence dans le nombre d'unités que chacun détient;
- c) la fiducie n'a jamais emprunté 40 d'argent;
- d) elle n'a jamais accepté de dépôts;
- e) elle répond aux conditions prévues par règlement.»

(2) Subsection (1) is applicable with respect to periods occurring after 1985.

(2) Le paragraphe (1) s'applique aux 45 périodes tombant après 1985.

PART II

1984, c. 45

AN ACT TO AMEND THE INCOME TAX ACT AND RELATED STATUTES

130. (1) Section 86 of *An Act to amend the Income Tax Act and related statutes*, being chapter 45 of the Statutes of Canada, 1984, is repealed and the following substituted therefor:

“**86.** (1) Paragraph 206(2)(e.1) of the said Act is repealed and the following substituted therefor:

“(e.1) any property that, under the terms or conditions thereof or any agreement relating thereto, is convertible into, is exchangeable for or confers a right to acquire, property that is foreign property, but not including property that is

- (i) a share of the capital stock of a Canadian corporation listed on a prescribed stock exchange in Canada, or
- (ii) a right issued before 1984 and listed on a prescribed stock exchange in Canada to acquire a share of the capital stock of a Canadian corporation,”

(2) Subsection (1) is applicable after 1983.”

(2) Subsection (1) shall be deemed to have come into force on December 20, 1984.

PART III

1985, c. 45

AN ACT TO AMEND THE STATUTE LAW RELATING TO INCOME TAX AND TO MAKE A RELATED AMENDMENT TO THE TAX COURT OF CANADA ACT

131. (1) Subsection 88(1) of *An Act to amend the statute law relating to income tax and to make a related amendment to the Tax Court of Canada Act*, being chapter 45 of the Statutes of Canada, 1985, is repealed.

(2) Subsection (1) shall be deemed to have come into force on October 29, 1985.

PARTIE II

LOI MODIFIANT LA LÉGISLATION RELATIVE À L'IMPÔT SUR LE REVENU ET D'AUTRES LOIS CONNEXES

1984, ch. 45

130. (1) L'article 86 de la *Loi modifiant la législation relative à l'impôt sur le revenu et d'autres lois connexes*, chapitre 45 des Statuts du Canada de 1984, est abrogé et 5 remplacé par ce qui suit :

«**86.** (1) L'alinéa 206(2)e.1) de la même loi est abrogé et remplacé par ce qui suit :

«e.1) tout bien qui, selon ses conditions ou une entente relative à ce bien, est convertible en un bien qui est un bien étranger, est échangeable contre un tel bien ou confère le droit d'acquérir un tel bien, à l'exclusion d'un bien qui est :

- (i) soit une action du capital-actions d'une corporation canadienne cotée à 15 une bourse de valeurs prescrite au Canada,
- (ii) soit un droit d'acquérir une action du capital-actions d'une corporation canadienne, émis avant 1984 et 20 coté à une bourse de valeurs prescrite au Canada,»

(2) Le paragraphe (1) s'applique après 1983.»

(2) Le paragraphe (1) est réputé être entré 25 en vigueur le 20 décembre 1984.

PARTIE III

LOI MODIFIANT LA LÉGISLATION RELATIVE À L'IMPÔT SUR LE REVENU ET, DE FAÇON CONNEXE, LA LOI SUR LA COUR CANADIENNE DE L'IMPÔT

1985, ch. 45

131. (1) Le paragraphe 88(1) de la *Loi modifiant la législation relative à l'impôt sur le revenu et, de façon connexe, la Loi sur la Cour canadienne de l'impôt*, chapitre 45 des Statuts du Canada de 1985, est abrogé.

(2) Le paragraphe (1) est réputé être entré en vigueur le 29 octobre 1985.

PART IV

PARTIE IV

R.S., c. C-5

CANADA PENSION PLAN

RÉGIME DE PENSIONS DU CANADA

S.R. ch. C-5

1984, c. 1, s.
120

132. (1) Subsection 24(2) of the *Canada Pension Plan* is repealed and the following substituted therefor:

132. (1) Le paragraphe 24(2) du *Régime de pensions du Canada* est abrogé et remplacé par ce qui suit :

1984, ch. 1, art.
120Provisions of
Income Tax
Act applicable

“(2) Subsections 220(4) and (5), sections 223 to 224.3, 229, 236 and 244, (except subsections (1) and (4) thereof) and subsection 248(11) of the *Income Tax Act* apply with such modifications as the circumstances require in relation to all contributions, interest, penalties and other amounts payable by a person under this Act.”

«(2) Les paragraphes 220(4) et (5), les articles 223 à 224.3, 229, 236 et 244 (sauf les paragraphes (1) et (4)) et le paragraphe 248(11) de la *Loi de l'impôt sur le revenu* s'appliquent, avec les adaptations nécessaires, aux cotisations, intérêts, pénalités et autres montants payables par une personne selon la présente loi.»

Dispositions de
la *Loi de*
l'impôt sur le
revenu
applicables

(2) Subsections 24(4) and (5) of the said Act are repealed and the following substituted therefor:

(2) Les paragraphes 24(4) et (5) de la même loi sont abrogés et remplacés par ce qui suit :

Amount in trust
not part of
estate

“(4) Notwithstanding any provision of the *Bankruptcy Act*, in the event of any liquidation, assignment, receivership or bankruptcy of or by an employer, an amount equal to the amount that by subsection (3) is deemed to be held in trust for Her Majesty shall be deemed to be separate from and form no part of the estate in liquidation, assignment, receivership or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own moneys or from the assets of the estate.”

“(4) Nonobstant les dispositions de la *Loi sur la faillite*, en cas de liquidation, cession, mise sous séquestre ou faillite d'un employeur, un montant égal au montant réputé, selon le paragraphe (3), détenu en fiducie pour Sa Majesté est considéré comme tenu séparé et ne formant pas partie du patrimoine visé par la liquidation, cession, mise sous séquestre ou faillite, que ce montant ait été ou non, en fait, tenu séparé des propres fonds de l'employeur ou des éléments du patrimoine.”

Montant en
fiducie exclu de
la masseCertificate
before
distribution

(5) Every person (other than a trustee in bankruptcy) who is an assignee, liquidator, receiver, receiver-manager, administrator, executor, or any other like person, (in this section referred to as the “responsible representative”) administering, winding-up, controlling or otherwise dealing with a property, business or estate of another person, before distributing to one or more persons any property over which he has control in his capacity as the responsible representative, shall obtain a certificate from the Minister certifying that all amounts

(5) Quiconque (à l'exclusion d'un syndic de faillite) est cessionnaire, liquidateur, séquestre, séquestre-gérant, administrateur, exécuteur testamentaire ou une autre personne semblable — appelé «responsable» au présent article —, chargé de gérer, liquider ou garder quelque bien, entreprise ou patrimoine d'une autre personne ou de s'en occuper autrement, doit, avant de répartir entre plusieurs personnes ou d'attribuer à une seule des biens sous sa garde en sa qualité de responsable, obtenir du ministre un certificat attestant qu'ont été versés tous les montants

Certificat avant
distribution

(a) for which any employer is liable under this Act up to and including the date of distribution, and

a) dont un employeur est redevable en vertu de la présente loi jusqu'à la date de répartition ou d'attribution, et

45

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(b) for the payment of which the responsible representative is or can reasonably be expected to become liable in his capacity as the responsible representative

have been paid or that security for the payment thereof has been accepted by the Minister.

Personal
liability

(5.1) Where a responsible representative distributes to one or more persons property over which he has control in his capacity as the responsible representative without obtaining a certificate under subsection (5) in respect of the amounts referred to in that subsection, the responsible representative is personally liable for the payment of those amounts to the extent of the value of the property distributed and the Minister may assess the responsible representative therefor in the same manner and with the same effect as an assessment made under section 23."

(3) Section 24 of the said Act is further amended by adding thereto the following subsections:

Priority

"(7) Notwithstanding any other provision of this Act, any other enactment of Canada other than the *Income Tax Act*, any enactment of a province or any law, where an employer has been assessed under subsection 23(1), the amount determined under subsection (8) is secured by a charge on the property referred to in subsection (9) and the charge has priority over all other claims and all other security interests.

Amount
secured

(8) The amount that, pursuant to subsection (7), is secured by a charge on the property of an employer is that part, if any, of the amount for which he was assessed under subsection 23(1) that is equal to the aggregate of all amounts each of which is an amount that

(a) he has deducted from the remuneration of an employee as required by subsection 22(1) at any time during the 90 day period immediately preceding

b) du paiement desquels le responsable est, en cette qualité, redevable ou dont on peut raisonnablement s'attendre à ce qu'il le devienne,

ou attestant que le ministre a accepté une garantie pour le paiement de ces montants.

Responsabilité
personnelle

(5.1) Le responsable qui, en cette qualité, répartit entre plusieurs personnes ou attribue à une seule des biens sous sa garde sans le certificat prévu au paragraphe (5) à l'égard des montants visés à ce paragraphe, est personnellement redevable de ces montants, jusqu'à concurrence de la valeur des biens répartis ou attribués; le ministre peut alors cotiser le responsable de la façon prévue à l'article 23, et cette cotisation a le même effet qu'une cotisation établie en vertu de cet article."

(3) L'article 24 de la même loi est modifié par adjonction de ce qui suit :

"(7) Nonobstant les autres dispositions de la présente loi, d'un autre texte législatif fédéral (sauf la *Loi de l'impôt sur le revenu*) ou d'un texte législatif provincial et nonobstant toute règle de droit, lorsqu'une cotisation est établie à l'égard d'un employeur selon le paragraphe 23(1), le montant calculé selon le paragraphe (8) est garanti par une sûreté sur les biens visés au paragraphe (9) qui lui permet d'être colloqué par priorité sur les autres réclamations et garanties.

Créance
prioritaire

(8) Le montant qui, conformément au paragraphe (7), est garanti par une sûreté sur les biens d'un employeur correspond à la partie éventuelle de la cotisation établie à l'égard de cet employeur en vertu du paragraphe 23(1), qui correspond au total des montants dont chacun représente un montant

Montant
garanti

a) qu'il a déduit de la rémunération d'un employé, conformément au paragraphe 22(1), à une date quelconque de la période de 90 jours qui précède :

Property
charged

- (i) the day of mailing of a notice of an original assessment under subsection 23(1), or
- (ii) where the employer has been assessed in respect of an amount deducted before the day of the appointment of a trustee to administer, manage, distribute, wind-up, control or otherwise deal with the property, business, estate or income of that employer, that day; and

(b) he has failed to remit to the Receiver General.

(9) The property of an employer on which a charge is created under subsection (7) is all the property held by that employer

(a) at any time after the day on which a certificate in respect of the amount assessed under subsection 23(1) is registered in the Federal Court; or

(b) where the employer has been assessed in respect of an amount deducted before the day of the appointment of a trustee to administer, manage, distribute, wind-up, control or otherwise deal with the property, business, estate or income of that employer, immediately before that day.

(10) Without limiting the generality of subsection (7), where the Minister has knowledge or suspects that, but for a claim or security interest in favour of a person (in this subsection referred to as the "secured creditor"), a person would be or would become, within 90 days, liable to make a payment to an employer who has been assessed under subsection 23(1), the Minister may, by registered letter or by a letter served personally, require the person to pay forthwith, where the moneys are immediately payable and, in any other case, as and when the moneys become payable, the moneys otherwise payable to the secured creditor in whole or in part to the Receiver General on account of the

(i) soit la date de mise à la poste d'un premier avis de cotisation en vertu du paragraphe 23(1),

(ii) soit la date de nomination d'un fiduciaire chargé d'administrer, gérer, répartir ou attribuer, liquider ou garder des biens, l'entreprise, le patrimoine ou le revenu de l'employeur ou de s'en occuper autrement, dans le cas où une cotisation a été établie à l'égard de l'employeur pour un montant déduit avant cette date; et

b) qu'il n'a pas remis au receveur général.

(9) Les biens d'un employeur sur lesquels une sûreté est créée en vertu du paragraphe (7) sont tous les biens que cet employeur détient :

a) soit à une date postérieure à la date d'enregistrement auprès de la Cour fédérale d'un certificat concernant la cotisation établie en vertu du paragraphe 23(1);

b) soit à la date qui précède la date de nomination d'un fiduciaire chargé d'administrer, gérer, répartir ou attribuer, liquider ou garder des biens, l'entreprise, le patrimoine ou le revenu de l'employeur ou de s'en occuper autrement, dans le cas où une cotisation a été établie à l'égard de l'employeur pour un montant déduit avant la date de nomination.

(10) Sans que soit limitée la portée générale du paragraphe (7), si le ministre sait ou soupçonne que, n'eût été une réclamation ou garantie en faveur d'une personne — appelée «créancier garanti» au présent paragraphe — une personne serait ou deviendrait redevable, dans les 90 jours, d'un paiement à un employeur à l'égard duquel une cotisation a été établie en vertu du paragraphe 23(1), il peut, par lettre recommandée ou signifiée à personne, obliger cette personne à payer sans délai au receveur général, au titre du montant dont l'employeur est redevable en vertu de la présente loi, tout ou partie des fonds payables par ailleurs au créancier garanti, si ces fonds sont exigibles ou à mesure qu'ils

15 Biens grevés de la sûreté

35 Revendication par un tiers

employer's liability under this Act, to the extent of the portion of the assessed amount in respect of which a charge on the employer's property has been created under subsection (7).

5

Provisions of
Income Tax
Act applicable

(11) Where the Minister imposes a requirement under subsection (10), subsections 224(2), (3), (4), (5) and (6) and subsection 227(10) of the *Income Tax Act* are applicable to the requirement with 10 such modifications as the circumstances require.

Definitions

"claim"
«réclamation»

(12) In subsections (7) to (10),
"claim" means a claim of any kind what- 15
ever, however or whenever arising, abso-
lute or contingent, legal or equitable in
nature, consensual or statutory in origin,
secured or unsecured, including a claim
of Her Majesty in right of Canada or
any province, or in any other right, but 20
does not include a charge created under
subsection (7) and a charge created
under subsection 227(10.2) of the
Income Tax Act;

"property"
«bien»

"property" includes 25
(a) an interest, legal or equitable in
nature, immediate or future, absolute
or contingent, in all property, real and
personal, tangible and intangible,
whether subject to a security interest 30
or not, and
(b) property substituted for the inter-
est described in paragraph (a),

but does not include property that is
subject to a security interest in favour of 35
the seller or lessor of the property to
secure payment of all or part of its price
or performance in whole or in part of an
obligation, if such security interest has
not been transferred or assigned to a 40
third party without recourse against the
seller or lessor, as the case may be, to
the extent of the interest of the seller or
lessor in the property subject to such
security interest; 45

"security
interest"
«garantie»

"security interest" includes a security in-
terest, debenture, mortgage, hypothec,
lien, pledge, charge, deemed or actual
trust, assignment or encumbrance of
any kind whatever, however or whenever 50

le deviennent, jusqu'à concurrence de la
partie de la cotisation à l'égard de laquelle
une sûreté sur les biens de l'employeur a
été créée en vertu du paragraphe (7).

(11) Lorsque le ministre agit conformé- 5
ment au paragraphe (10), les paragraphes
224(2), (3), (4), (5) et (6) et 227(10) de la
Loi de l'impôt sur le revenu s'appliquent,
avec les adaptations nécessaires.

5 Dispositions de
la Loi de
l'impôt sur le
revenu
applicables

(12) Les définitions qui suivent s'appli- 10 Définitions
quent aux paragraphes (7) à (10).

«bien» Sont compris dans un bien :
a) un droit — fondé en droit ou en
equity, immédiat ou futur, condition- 15
nel ou non — sur tous les biens mobi-
liers et immobiliers, corporels et
incorporels, qu'ils soient ou non affect-
és à une garantie;
b) un bien substitué au droit visé à
l'alinéa a). 20

«bien»
"property"

Sont exclus les biens affectés, en faveur
du vendeur ou du locateur, à une garan-
tie pour garantir le paiement de tout ou
partie du prix des biens ou l'exécution
de tout ou partie d'une obligation, si la 25
garantie n'a été ni transférée ni cédée à
un tiers sans recours contre le vendeur
ou le locateur, selon le cas, jusqu'à con-
currence du droit du vendeur ou du
locateur sur ces biens. 30

«fiduciaire» Cessionnaire, liquidateur,
séquestre, séquestre-gérant, syndic de
faillite, administrateur-séquestre ou
autre personne dont les fonctions sont
semblables à celles de l'une de ces 35
personnes.

«fiduciaire»
"trustee"

«garantie» Sont compris dans une garantie,
une débenture, une hypothèque, un
mortgage, un privilège, un nantissement,
une sûreté, une fiducie réputée ou réelle, 40
une cession ou une charge, quelle qu'en
soit la nature, de quelque façon ou à
quelque date qu'elle soit créée, réputée
exister ou prévue par ailleurs.

«garantie»
"security
interest"

«réclamation» Réclamation, quelle qu'en 45
soit la nature, de quelque façon ou à

«réclamation»
"claim"

"trustee"
«fiduciaire»

arising, created, deemed to arise or otherwise provided for;
"trustee" means an assignee, liquidator, receiver, receiver-manager, trustee in bankruptcy, sequestrator or any other person performing a function similar to that performed by any such person.

Substituted
property

(13) For the purposes of the definition "property" in subsection (12), where a person has disposed of a particular property and acquired other property in substitution therefor and subsequently, by one or more further transactions, has effected one or more further substitutions, the property acquired by any such transaction shall be deemed to have been substituted for the particular property."

(4) Subsection (1) shall come into force on a day to be fixed by proclamation.

(5) Subsection (2) is applicable to amounts that were deducted after May 23, 1985.

(6) Subsection (3) is applicable to assessments in respect of amounts that were deducted after the day on which this Act is assented to.

133. Section 26 of the said Act is repealed and the following substituted therefor:

Interpretation

"authorized
person"
«personne
autorisée»

"documents"
«documents»

"dwelling-
house"
«maison
d'habitation»

"26. (1) In this section,
"authorized person" means a person authorized by the Minister for the purposes of this section;
"documents" includes any of the following whether computerized or not: books of account, records, vouchers, invoices, accounts and statements (financial or otherwise);
"dwelling-house" means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes
(a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and

quelque date qu'elle existe, conditionnelle ou non, fondée en droit ou en equity, d'origine conventionnelle ou légale, garantie ou non, y compris une réclamation de Sa Majesté du chef du Canada, d'une province ou autre, à l'exclusion d'une sûreté créée en vertu du paragraphe (7) de la présente loi et du paragraphe 227(10.2) de la Loi de l'impôt sur le revenu.

(13) Pour l'application de la définition de «bien» au paragraphe (12), lorsqu'une personne dispose d'un bien donné et acquiert un autre bien en remplacement et que, par la suite, par une ou plusieurs autres opérations, elle effectue une ou plusieurs autres substitutions, le bien acquis par cette opération est réputé substitué au bien donné.»

(4) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.

(5) Le paragraphe (2) s'applique aux montants déduits après le 23 mai 1985.

(6) Le paragraphe (3) s'applique aux cotisations établies pour les montants déduits après la date de sanction de la présente loi.

133. L'article 26 de la même loi est abrogé et remplacé par ce qui suit :

"26. (1) Les définitions qui suivent s'appliquent au présent article.

"documents" Sont compris dans documents, qu'ils soient informatisés ou non, les livres de compte, les registres, les pièces justificatives, les factures, les comptes et les états (financiers ou non).

"juge" Juge d'une cour supérieure compétente de la province où l'affaire prend naissance ou juge de la Cour fédérale.

"maison d'habitation" Tout ou partie de quelque bâtiment ou construction tenu ou occupé comme résidence permanente ou temporaire, y compris :
a) un bâtiment qui se trouve dans la même enceinte qu'une maison d'habitation et qui y est relié par une baie

Définitions

30

"documents"
"documents"

"juge"
"judge"

"Maison
d'habitation"
"dwelling
house"

45

"judge" "juge"	<p>(b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence;</p> <p>"judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court.</p>	<p>de porte ou par un passage couvert et clos;</p> <p>b) une unité conçue pour être mobile et pour être utilisée comme résidence permanente ou temporaire et qui est ainsi utilisée.</p> <p>«personne autorisée» Personne autorisée par le ministre pour l'application du présent article.</p> <p>«personne autorisée» "authorized person"</p>
Inspections	<p>(2) An authorized person may, at all reasonable times, for any purpose relating to the administration or enforcement of this Act, inspect, audit or examine any document that relates or may relate to the information that is or should be contained in the records or books of account or to the amount of any contribution payable under this Act and, for those purposes, the authorized person may</p> <p>(a) subject to subsection (3), enter any premises or place where any records or books of account are or should be kept; and</p> <p>(b) require the owner, occupant or person in charge of the premises or place to give him all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act and, for that purpose, require the owner, occupant or person in charge of the premises or place to attend at such premises or place with him.</p>	<p>(2) Une personne autorisée peut, en tout temps raisonnable, pour l'application et l'exécution de la présente loi, inspecter vérifier ou examiner tous documents qui se rapportent ou peuvent se rapporter soit aux renseignements qui figurent dans ces registres ou livres ou qui devraient y figurer, soit au montant de toute cotisation payable aux termes de la présente loi; à ces fins, elle peut :</p> <p>a) sous réserve du paragraphe (3), pénétrer dans un lieu où des registres ou des livres de compte sont tenus ou devraient l'être;</p> <p>b) requérir le propriétaire, occupant ou responsable du lieu de lui fournir toute l'aide raisonnable, de répondre à toutes les questions pertinentes à l'application et l'exécution de la présente loi et, à cette fin, requérir le propriétaire, occupant ou responsable de l'accompagner sur le lieu.</p> <p>Enquêtes</p>
Prior authorization	<p>(3) Where a premises or place referred to in subsection (2) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection (4).</p>	<p>(3) Lorsque le lieu mentionné au paragraphe (2) est une maison d'habitation, une personne autorisée ne peut y pénétrer sans la permission de l'occupant, à moins d'y être autorisée par un mandat décerné en vertu du paragraphe (4).</p> <p>Autorisation préalable</p>
Application	<p>(4) Where, on <i>ex parte</i> application by the Minister, a judge is satisfied by information on oath</p> <p>(a) that there are reasonable grounds to believe that a dwelling-house is a premises or place referred to in subsection (2),</p> <p>(b) that entry into the dwelling-house is necessary for any purpose relating to the</p>	<p>(4) Sur requête <i>ex parte</i> du ministre, le juge saisi décerne un mandat qui autorise une personne autorisée à pénétrer dans une maison d'habitation aux conditions que peut préciser le mandat, s'il est convaincu, sur déclaration sous serment, de ce qui suit :</p> <p>a) il existe des motifs raisonnables de croire qu'une maison d'habitation est un lieu mentionné au paragraphe (2);</p> <p>Mandat d'entrée</p>

administration or enforcement of this Act, and

(c) that entry into the dwelling-house has been refused or that there are reasonable grounds to believe that entry thereto will be refused,

he shall issue a warrant authorizing an authorized person to enter that dwelling-house subject to such conditions as may be specified in the warrant but, where the judge is not satisfied that entry into that dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, he shall

(d) order the occupant of the dwelling-house to provide reasonable access to an authorized person to any document that is or should be kept therein, and

(e) make such other order as is appropriate in the circumstances to carry out the purposes of this Act

to the extent that access has been or may be expected to be refused and that the document is or may be expected to be kept in the dwelling-house.

(5) Notwithstanding any other provision of this Act, the Minister may, subject to subsection (6), for any purpose related to the administration or enforcement of this Act, by notice served personally or by registered or certified mail, require that any person provide, within such reasonable time as is stipulated in the notice,

(a) any information or additional information, including a return of income or a supplementary return; or

(b) any document.

(6) The Minister shall not impose on any person (in this section referred to as a "third party") a requirement under subsection (5) to provide information or any document relating to one or more unnamed persons unless he first obtains the authorization of a judge under subsection (7).

(7) On *ex parte* application by the Minister, a judge may, subject to such conditions as he considers appropriate, author-

b) il est nécessaire d'y pénétrer pour l'application et l'exécution de la présente loi;

c) un refus d'y pénétrer a été opposé ou il existe des motifs raisonnables de croire qu'un tel refus sera opposé.

Dans la mesure où un refus de pénétrer dans la maison d'habitation a été opposé ou pourrait l'être et où les documents sont gardés dans la maison d'habitation ou pourraient l'être, le juge qui n'est pas convaincu qu'il est nécessaire de pénétrer dans la maison d'habitation pour l'application et l'exécution de la présente loi doit ordonner à l'occupant de la maison d'habitation de permettre à une personne autorisée d'avoir raisonnablement accès à tous documents qui sont gardés dans la maison d'habitation ou devraient y être gardés et rend toute autre ordonnance indiquée en l'es-pèce pour l'application de la présente loi.

(5) Nonobstant les autres dispositions de la présente loi, le ministre peut, sous réserve du paragraphe (6) et pour l'application et l'exécution de la présente loi, par avis signifié à personne ou envoyé par courrier recommandé ou certifié, exiger d'une personne, dans le délai raisonnable que précise l'avis,

a) qu'elle fournisse des renseignements ou renseignements supplémentaires, y compris sur déclaration de renseignement ou déclaration supplémentaire;

b) qu'elle produise des documents.

(6) Le ministre ne peut exiger de qui-conque — appelé «tiers» au présent article — la fourniture de renseignements ou production de documents prévue au paragraphe (5) concernant une ou plusieurs personnes non désignées nommément, sans être au préalable autorisé par un juge en vertu du paragraphe (7).

(7) Sur requête *ex parte* du ministre, un juge peut, aux conditions qu'il estime indiquées, autoriser le ministre à exiger d'un

Production de documents ou fourniture de renseignements

Personnes non désignées nommément

Autorisation judiciaire

Requirement to provide documents or information

Unnamed Persons

Judicial Authorization

ize the Minister to impose on a third party a requirement under subsection (5) relating to an unnamed person or more than one unnamed person (in this section referred to as the "group") where the judge is satisfied by information on oath that

- (a) the person or group is ascertainable;
- (b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Act;
- (c) it is reasonable to expect, based on any grounds, including information (statistical or otherwise) or past experience relating to the group or any other persons, that the person or any person in the group may have failed or may be likely to fail to provide information that is sought pursuant to the requirement or to otherwise comply with this Act; and
- (d) the information or document is not otherwise more readily available.

(8) Where an authorization is granted under subsection (7), the authorization shall be served together with the notice referred to in subsection (5).

(9) Where an authorization is granted under subsection (7), a third party on whom a notice is served under subsection (5) may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, where the judge is unable to act, to another judge of the same court for a review of the authorization.

(10) On hearing an application under subsection (9), a judge may cancel the authorization previously granted if he is not then satisfied that the conditions in paragraphs (7)(a) to (d) have been met and he may confirm or vary the authorization if he is satisfied that those conditions have been met.

tiers la fourniture ou production prévue au paragraphe (5) concernant une personne non désignée nommément ou plus d'une personne non désignée nommément — appelée «groupe» au présent article —, s'il est convaincu, sur dénonciation sous serment, de ce qui suit :

- a) cette personne ou ce groupe est identifiable;
- b) la fourniture ou la production est exigée pour vérifier si cette personne ou les personnes de ce groupe ont respecté quelque devoir ou obligation prévu par la présente loi;
- c) il est raisonnable de s'attendre — pour n'importe quel motif, notamment des renseignements (statistiques ou autres) ou l'expérience antérieure, concernant ce groupe ou toute autre personne — à ce que cette personne ou une personne de ce groupe n'ait pas fourni les renseignements exigés ou ne les fournisse vraisemblablement pas ou n'ait pas respecté par ailleurs la présente loi ou ne la respecte vraisemblablement pas;
- d) il n'est pas possible d'obtenir plus facilement les renseignements ou les documents.

(8) L'autorisation accordée en vertu du paragraphe (7) doit être jointe à l'avis visé au paragraphe (5).

(9) Le tiers à qui un avis est signifié ou envoyé conformément au paragraphe (5) peut, dans les 15 jours suivant la date de signification ou d'envoi, demander au juge qui a accordé l'autorisation prévue au paragraphe (7) ou, en cas d'incapacité de celui-ci, à un autre juge du même tribunal de réviser l'autorisation.

(10) À l'audition de la requête prévue au paragraphe (9), le juge peut annuler l'autorisation accordée antérieurement s'il n'est pas convaincu de l'existence des conditions prévues aux alinéas (7)a) à d). Il peut la confirmer ou la modifier s'il est convaincu de leur existence.

Service of
authorization

Review of
authorization

Powers on
review

Signification ou
envoi de
l'autorisation

Révision de
l'autorisation

Pouvoir de
révision

Additional
remedy

(11) Where a person is found guilty of an offence under subsection 42(2) for failing to comply with a requirement under subsection (5), the court may make such order as it deems proper in order to enforce compliance with the requirement. 5

(11) Le tribunal peut rendre l'ordonnance qu'il estime indiquée pour faire respecter l'exigence de fourniture ou production prévue au paragraphe (5), lorsqu'une personne est déclarée coupable d'infraction au paragraphe 42(2) pour n'avoir pas obtempéré à cette exigence. 5

Ordonnance
d'exécution

Copies as
evidence

(12) Where any document is inspected, examined or provided in accordance with this section, the person by whom it is inspected or examined or to whom it is provided or any officer of the Department of National Revenue, Taxation may make, or cause to be made, one or more copies thereof and any document purporting to be certified by the Minister or an authorized person to be a copy made pursuant to this section is evidence of the nature and content of the original document and has the same probative force as the original document would have if it were proven in the ordinary way. 10 15 20

(12) Lorsque des documents sont inspectés, examinés ou produits conformément au présent article, la personne qui fait cette inspection ou cet examen ou à qui est faite cette production ou tout fonctionnaire du ministère du Revenu national pour l'impôt peut en faire ou en faire faire une ou plusieurs copies. Les documents présentés comme documents que le ministre ou une personne autorisée atteste être des copies faites conformément au présent paragraphe font preuve de la nature et du contenu des documents originaux et ont la même force probante qu'auraient ceux-ci si leur authenticité était prouvée de la façon usuelle. 10 15 20

Copies

Compliance

(13) No person shall hinder, molest or interfere with any person doing anything that he is authorized to do by or pursuant to this section or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other Act or law, every person shall, unless he is unable to do so, do everything he is required to do by or pursuant to this section." 25 30

(13) Nul ne doit entraver, rudoyer ou contrecarrer une personne qui fait une chose qu'elle est autorisée à faire en vertu et en conformité du présent article, ni empêcher ou tenter d'empêcher une personne de faire une telle chose. Nonobstant les dispositions de toute autre loi ou toute autre règle de droit, quiconque tenu par le présent article de faire quelque chose doit le faire, sauf impossibilité.» 25 30

Observation du
présent article

PART V

UNEMPLOYMENT INSURANCE ACT, 1971

134. Section 67 of the *Unemployment Insurance Act, 1971* is repealed and the following substituted therefor:

“67. In this Part,
“authorized person” means a person authorized by the Minister for the purposes of this Part;
“documents” includes any of the following, whether computerized or not: books, records, writings, vouchers, 40

Definitions

“authorized
person”
«personne
autorisée»

“documents”
«documents»

PARTIE V

LOI DE 1971 SUR L'ASSURANCE-CHÔMAGE

134. L'article 67 de la *Loi de 1971 sur l'assurance-chômage* est abrogé et remplacé par ce qui suit :

«67. Les définitions qui suivent s'appliquent à la présente partie.

«documents» Sont compris dans documents, qu'ils soient informatisés ou non, les registres, les livres de comptabilité, les écrits, les pièces justificatives, les factures, les comptes et les états (financiers ou non). 40

Définitions

«documents»
“documents”

1970-71-72,
c. 48

1970-71-72,
ch. 48

	invoices, accounts and statements (financial or otherwise);		«juge» Juge d'une cour supérieure compétente de la province où l'affaire prend naissance ou juge de la Cour fédérale.	«juge» "judge"
"dwelling-house" «maison d'habitation»	"dwelling-house" means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes (a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and (b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence;	5 10	«maison d'habitation» Tout ou partie de quelque bâtiment ou construction tenu ou occupé comme résidence permanente ou temporaire, y compris : a) un bâtiment qui se trouve dans la même enceinte qu'une maison d'habitation et qui y est relié par une baie de porte ou par un passage couvert et clos; b) une unité conçue pour être mobile et pour être utilisée comme résidence permanente ou temporaire et qui est ainsi utilisée.	5 «maison d'habitation» "dwelling house"
"judge" «juge»	"judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court;	15	«ministre» Ministre du Revenu national.	«ministre» "Minister"
"Minister" «ministre»	"Minister" means the Minister of National Revenue."	20	«personne autorisée» Personne autorisée par le ministre pour l'application de la présente partie.»	«personne autorisée» "authorized person"

135. (1) Subsections 71(3) and (4) of the said Act are repealed and the following substituted therefor:

135. (1) Les paragraphes 71(3) et (4) de la même loi sont abrogés et remplacés par ce qui suit :

Amount in trust not part of estate	"(3) Notwithstanding any provision of the <i>Bankruptcy Act</i> , in the event of any liquidation, receivership, assignment or bankruptcy of or by an employer, an amount equal to the amount that by subsection (2) is deemed to be held in trust for Her Majesty shall be deemed to be separate from and form no part of the estate in liquidation, receivership, assignment or bankruptcy, whether or not that amount has in fact been kept separate and apart from the employer's own moneys or from the assets of the estate.	25 30 35	«(3) Nonobstant les dispositions de la <i>Loi sur la faillite</i> , en cas de liquidation, cession, mise sous séquestre ou faillite d'un employeur, un montant égal au montant réputé, selon le paragraphe (2), être détenu en fiducie pour Sa Majesté est considéré comme tenu séparé et ne forme pas partie du patrimoine visé par la liquidation, cession, mise sous séquestre ou faillite, que ce montant ait été ou non, en fait, tenu séparé des propres fonds de l'employeur ou des éléments du patrimoine.	25 30 35	Montant en fiducie exclu de la masse
Certificate before distribution	(4) Every person (other than a trustee in bankruptcy) who is an assignee, liquidator, receiver, receiver-manager, administrator, executor, or any other like person, (in this section referred to as the "responsible representative") administering, winding-up, controlling or otherwise dealing with a property, business or estate of another person, before distributing to one or more persons any property over which he has control in his capacity as the responsible representative, shall obtain a certificate	40 45	(4) Quiconque (à l'exclusion d'un syndic de faillite) est cessionnaire, liquidateur, séquestre, séquestre-gérant, administrateur, exécuteur testamentaire ou une autre personne semblable — appelé «responsable» au présent article —, chargé de gérer, liquider ou garder quelque bien, entreprise ou patrimoine d'une autre personne ou de s'en occuper autrement, doit, avant de répartir entre plusieurs personnes ou d'attribuer à une seule des biens sous sa garde en sa qualité de responsable, obtenir du	40 45	Certificat avant répartition

from the Minister certifying that all amounts

(a) for which any employer is liable under this Act up to and including the date of distribution, and

(b) for the payment of which the responsible representative is or can reasonably be expected to become liable in his capacity as the responsible representative

have been paid or that security for the payment thereof has been accepted by the Minister.

(4.1) Where a responsible representative distributes to one or more persons property over which he has control in his capacity as the responsible representative without obtaining a certificate under subsection (4) in respect of the amounts referred to in that subsection, the responsible representative is personally liable for the payment of those amounts to the extent of the value of the property distributed and the Minister may assess the responsible representative therefor in the same manner and with the same effect as an assessment made under section 70."

(2) Section 71 of the said Act is further amended by adding thereto the following subsections:

"(7) Notwithstanding any other provision of this Act, any other enactment of Canada other than the *Income Tax Act* and the *Canada Pension Plan*, any enactment of a province or any law, where an employer has been assessed under subsection 70(1), the amount determined under subsection (8) is secured by a charge on the property referred to in subsection (9) and the charge has priority over all other claims and all other security interests.

(8) The amount that, pursuant to subsection (7), is secured by a charge on the property of an employer is that part, if any, of the amount for which he was assessed under subsection 70(1) that is

ministre un certificat attestant qu'ont été versés tous les montants

a) dont un employeur est redevable en vertu de la présente loi jusqu'à la date de répartition ou d'attribution, et

b) du paiement desquels le responsable est, en cette qualité, redevable ou dont on peut raisonnablement s'attendre à ce qu'il le devienne,

ou attestant que le ministre a accepté une garantie pour le paiement de ces montants.

(4.1) Le responsable qui, en cette qualité, répartit entre plusieurs personnes ou attribue à une seule des biens sous sa garde sans le certificat prévu au paragraphe (4) à l'égard des montants visés à ce paragraphe, est personnellement redevable de ces montants, jusqu'à concurrence de la valeur des biens répartis ou attribués; le ministre peut alors cotiser le responsable de la façon prévue à l'article 70, et cette cotisation a le même effet qu'une cotisation établie en vertu de cet article."

(2) L'article 71 de la même loi est modifié par adjonction de ce qui suit :

"(7) Nonobstant les autres dispositions de la présente loi, d'un autre texte législatif fédéral — sauf la *Loi de l'impôt sur le revenu* et le *Régime de pensions du Canada* — ou d'un texte législatif provincial et nonobstant toute règle de droit, lorsqu'une cotisation a été établie à l'égard d'un employeur en vertu du paragraphe 70(1), le montant calculé selon le paragraphe (8) est garanti par une sûreté sur les biens visés au paragraphe (9) qui lui permet d'être colloqué par priorité sur toutes les autres réclamations et garanties.

(8) Le montant qui, conformément au paragraphe (7), est garanti par une sûreté sur les biens d'un employeur correspond à la partie éventuelle de la cotisation établie à l'égard de cet employeur en vertu du

Personal
liability

Responsabilité
personnelle

Priority

Créance
prioritaire

Amount
secured

Montant
garanti

equal to the aggregate of all amounts each of which is an amount that

(a) he has deducted from the remuneration of an employee as required by subsection 68(1) at any time during the 90 day period immediately preceding

(i) the day of mailing of a notice of an original assessment under subsection 70(1), or

(ii) where the employer has been assessed in respect of an amount deducted before the day of the appointment of a trustee to administer, manage, distribute, wind up, control or otherwise deal with the property, business, estate or income of that employer, that day; and

(b) he has failed to remit to the Receiver General.

(9) The property of an employer on which a charge is created under subsection (7) is all the property held by that employer

(a) at any time after the day on which a certificate in respect of the amount assessed under subsection 70(1) is registered in the Federal Court; or

(b) where the employer has been assessed in respect of an amount deducted before the day of the appointment of a trustee to administer, manage, distribute, wind up, control or otherwise deal with the property, business, estate or income of that employer, immediately before that day.

(10) Without limiting the generality of subsection (7), where the Minister has knowledge or suspects that, but for a claim or security interest in favour of a person (in this subsection referred to as the "secured creditor"), a person would be or would become, within 90 days, liable to make a payment to an employer who has been assessed under subsection 70(1), the Minister may, by registered letter or by a

paragraphe 70(1), qui correspond au total des montants dont chacun représente un montant

a) qu'il a déduit de la rémunération d'un employé, conformément au paragraphe 68(1), à une date quelconque de la période de 90 jours qui précède :

(i) soit la date de mise à la poste d'un premier avis de cotisation en vertu du paragraphe 70(1);

(ii) soit la date de nomination d'un fiduciaire chargé d'administrer, gérer, répartir ou attribuer, liquider ou garder des biens, l'entreprise, le patrimoine ou le revenu de l'employeur ou de s'en occuper autrement, dans le cas où une cotisation a été établie à l'égard de l'employeur pour un montant déduit avant cette date; et

b) qu'il n'a pas remis au receveur général.

(9) Les biens d'un employeur sur lesquels une sûreté est créée en vertu du paragraphe (7) sont tous les biens que cet employeur détient :

a) soit à une date postérieure à la date d'enregistrement auprès de la Cour fédérale d'un certificat concernant le montant de la cotisation établie en vertu du paragraphe 70(1);

b) soit à la date qui précède la date de nomination d'un fiduciaire chargé d'administrer, gérer, répartir ou attribuer, liquider ou garder des biens, l'entreprise, le patrimoine ou le revenu de l'employeur ou de s'en occuper autrement, dans le cas où une cotisation a été établie à l'égard de l'employeur pour un montant déduit avant la date de nomination.

(10) Sans que soit limitée la portée générale du paragraphe (7), si le ministre sait ou soupçonne que, n'eût été une réclamation ou une garantie en faveur d'une personne — appelée «créancier garanti» au présent paragraphe —, une personne serait ou deviendrait redevable, dans les 90 jours, d'un paiement à un employeur à l'égard duquel une cotisation a été établie en vertu du paragraphe 70(1), il peut, par lettre

Property
charged

Biens grevés de
la sûreté

Third party
demand

Revendication
par un tiers

letter served personally, require the person to pay forthwith, where the moneys are immediately payable and, in any other case, as and when the moneys become payable, the moneys otherwise payable to the secured creditor in whole or in part to the Receiver General on account of the employer's liability under this Act, to the extent of the portion of the assessed amount in respect of which a charge on the employer's property has been created under subsection (7).

(11) Where the Minister imposes a requirement under subsection (10), subsections 224(2), (3), (4), (5) and (6) and subsection 227(10) of the *Income Tax Act* are applicable to the requirement with such modifications as the circumstances require.

(12) In subsections (7) to (10), "claim" means a claim of any kind whatever, however or whenever arising, absolute or contingent, legal or equitable in nature, consensual or statutory in origin, secured or unsecured, including a claim of Her Majesty in right of Canada or any province, or in any other right, but does not include a charge created under subsection (7), a charge created under subsection 227(10.2) of the *Income Tax Act* or a charge created under subsection 24(7) of the *Canada Pension Plan*;

"property" includes
(a) an interest, legal or equitable in nature, immediate or future, absolute or contingent, in all property, real and personal, tangible and intangible, whether subject to a security interest or not, and
(b) property substituted for the interest described in paragraph (a),

but does not include property that is subject to a security interest in favour of the seller or lessor of the property to secure payment of all or part of its price or performance in whole or in part of an obligation, if such security interest has not been transferred or assigned to a third party without recourse against the seller or lessor, as the case may be,

recommandée ou signifiée à personne, obliger la personne à payer sans délai au receveur général, au titre du montant dont l'employeur est redevable en vertu de la présente loi, tout ou partie des fonds payables par ailleurs au créancier garanti, si ces fonds sont exigibles ou à mesure qu'ils le deviennent, jusqu'à concurrence de la partie de la cotisation à l'égard de laquelle une sûreté sur les biens de l'employeur a été créée en vertu du paragraphe (7).

(11) Lorsque le ministre agit conformément au paragraphe (10), les paragraphes 224(2), (3), (4), (5) et (6) et 227(10) de la *Loi de l'impôt sur le revenu* s'appliquent, avec les adaptations nécessaires.

(12) Les définitions qui suivent s'appliquent aux paragraphes (7) à (10).

«bien» Sont compris dans un bien :
a) un droit — fondé en droit ou en equity, immédiat ou futur, conditionnel ou non — sur tous les biens mobiliers et immobiliers, corporels et incorporels, qu'ils soient ou non affectés à une garantie;
b) un bien substitué au droit visé à l'alinéa a).

Sont exclus les biens affectés, en faveur du vendeur ou du locateur, à une garantie pour garantir le paiement de tout ou partie du prix des biens ou l'exécution de tout ou partie d'une obligation, si la garantie n'a été ni transférée ni cédée à un tiers sans recours contre le vendeur ou le locateur, selon le cas, jusqu'à concurrence du droit du vendeur ou du locateur sur ces biens.

«fiduciaire» Cessionnaire, liquidateur, séquestre, séquestre-gérant, syndic de faillite, administrateur-séquestre ou autre personne dont les fonctions sont semblables à celles de l'une de ces personnes.

«garantie» Sont compris dans une garantie une débenture, une hypothèque, un mortgage, un privilège, un nantissement, une sûreté, une fiducie réputée ou réelle,

Dispositions de la *Loi de l'impôt sur le revenu* applicables

Définitions

«bien»
«property»

«fiduciaire»
«trustee»

«garantie»
«security interest»

Provisions of *Income Tax Act* applicable

Definitions
«claim»
«réclamation»

«property»
«biens»

“security
interest”
«garantie»

the extent of the interest of the seller or lessor in the property subject to such security interest;

“security interest” includes a security interest, debenture, mortgage, hypothec, lien, pledge, charge, deemed or actual trust, assignment or encumbrance of any kind whatever, however or whenever arising, created, deemed to arise or otherwise provided for;

“trustee”
«fiduciaire»

“trustee” means an assignee, liquidator, receiver, receiver-manager, trustee in bankruptcy, sequestrator or any other person performing a function similar to that performed by any such person.

Substituted
property

(13) For the purposes of the definition “property” in subsection (12), where a person has disposed of a particular property and acquired other property in substitution therefor and subsequently, by one or more further transactions, has effected one or more further substitutions, the property acquired by any such transaction shall be deemed to have been substituted for the particular property.”

(3) Subsection (1) is applicable to amounts that were deducted after May 23, 1985.

(4) Subsection (2) is applicable to assessments in respect of amounts that were deducted after the day on which this Act is assented to.

136. Section 73 of the said Act is repealed and the following substituted therefor:

“73. (1) An authorized person may, at all reasonable times, for any purpose relating to the administration or enforcement of this Act, inspect, audit or examine any document that relates or may relate to the information that is or should be contained in the records or books of account or to the amount of any premium payable under this Act and, for those purposes, the authorized person may

(a) subject to subsection (2), enter any premises or place where any records or

une cession ou une charge, quelle qu'en soit la nature, de quelque façon ou à quelque date qu'elle soit créée, réputée exister ou prévue par ailleurs.

«réclamation» Réclamation, quelle qu'en soit la nature, de quelque façon ou à quelque date qu'elle existe, conditionnelle ou non, fondée en droit ou en equity, d'origine conventionnelle ou légale, garantie ou non, y compris une réclamation de Sa Majesté du chef du Canada, d'une province ou autre, à l'exclusion d'une sûreté visée au paragraphe (7) de la présente loi, au paragraphe 227(10.2) de la *Loi de l'impôt sur le revenu* et au paragraphe 24(7) du *Régime de pensions du Canada*.

5 «réclamation»
“claim”

(13) Pour l'application de la définition de «bien» au paragraphe (12), lorsqu'une personne dispose d'un bien donné et acquiert un autre bien en remplacement et que, par la suite, par une ou plusieurs autres opérations, elle effectue une ou plusieurs autres substitutions, le bien acquis par cette opération est réputé substitué au bien donné.»

Biens substitués

(3) Le paragraphe (1) s'applique aux montants déduits après le 23 mai 1985.

(4) Le paragraphe (2) s'applique aux cotisations établies pour les montants déduits après la date de sanction de la présente loi.

136. L'article 73 de la même loi est abrogé et remplacé par ce qui suit :

«73. (1) Une personne autorisée peut, en tout temps raisonnable, pour l'application et l'exécution de la présente loi, inspecter, vérifier ou examiner tous documents qui se rapportent ou peuvent se rapporter soit aux renseignements qui figurent dans ces registres ou livres ou qui devraient y figurer, soit au montant de toute cotisation payable en vertu de la présente loi; à ces fins, la personne autorisée peut :

a) sous réserve du paragraphe (2), pénétrer dans un lieu où des registres ou

Enquêtes

Inspections

books of account are or should be kept;
and

(b) require the owner, occupant or person in charge of the premises or place to give him all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act and, for that purpose, require the owner, occupant or person in charge of the premises or place to attend at such premises or place with him.

des livres de comptabilité sont tenus ou devraient l'être;

b) requérir le propriétaire, occupant ou responsable du lieu de lui fournir toute l'aide raisonnable, de répondre à toutes les questions pertinentes à l'application et l'exécution de la présente loi et, à cette fin, requérir le propriétaire, occupant ou responsable de l'accompagner sur le lieu.

Prior authorization

(2) Where a premises or place referred to in subsection (1) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection (3).

Application

(3) Where, on *ex parte* application by the Minister, a judge is satisfied by information on oath

(a) that there are reasonable grounds to believe that a dwelling-house is a premises or place referred to in subsection (1),

(b) that entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, and

(c) that entry into the dwelling-house has been refused or that there are reasonable grounds to believe that entry thereto will be refused,

he shall issue a warrant authorizing an authorized person to enter that dwelling-house subject to such conditions as may be specified in the warrant but, where the judge is not satisfied that entry into that dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, he shall

(d) order the occupant of the dwelling-house to provide reasonable access to an authorized person to any document that is or should be kept therein, and

(e) make such other order as is appropriate in the circumstances to carry out the purposes of this Act

(2) Lorsque le lieu mentionné au paragraphe (1) est une maison d'habitation, une personne autorisée ne peut y pénétrer sans la permission de l'occupant, à moins d'y être autorisée par un mandat décerné en vertu du paragraphe (3).

Autorisation préalable

(3) Sur requête *ex parte* du ministre, le juge saisi décerne un mandat qui autorise une personne autorisée à pénétrer dans une maison d'habitation aux conditions que peut préciser le mandat, s'il est convaincu, sur déclaration sous serment, de ce qui suit :

Mandat d'entrée

a) il existe des motifs raisonnables de croire qu'une maison d'habitation est un lieu mentionné au paragraphe (1);

b) il est nécessaire d'y pénétrer pour l'application et l'exécution de la présente loi;

c) un refus d'y pénétrer a été opposé ou il existe des motifs raisonnables de croire qu'un tel refus sera opposé.

Dans la mesure où un refus de pénétrer dans la maison d'habitation a été opposé ou pourrait l'être et où les documents sont gardés dans la maison d'habitation ou pourraient l'être, le juge qui n'est pas convaincu qu'il est nécessaire de pénétrer dans la maison d'habitation pour l'application et l'exécution de la présente loi doit ordonner à l'occupant de la maison d'habitation de permettre à une personne autorisée d'avoir raisonnablement accès à tous documents qui sont gardés dans la maison d'habitation ou devraient y être gardés et rend toute autre ordonnance indiquée en l'espèce pour l'application de la présente loi.

to the extent that access has been or may be expected to be refused and that the document or is or may be expected to be kept in the dwelling-house.

Requirement to
provide
documents and
information

(4) Notwithstanding any other provision of this Act, the Minister may, subject to subsection (5), for any purpose relating to the administration or enforcement of this Part, by notice served personally, or by registered or certified mail, require that any person provide, within such reasonable time as is stipulated in the notice,

- (a) any information or additional information including any information return or supplementary return; or
- (b) any document.

Unnamed
Persons

(5) The Minister shall not impose on any person (in this section referred to as a "third party") a requirement under subsection (4) to provide information or any document relating to one or more unnamed persons unless he first obtains the authorization of a judge under subsection (6).

Judicial
Authorization

(6) On *ex parte* application by the Minister, a judge may, subject to such conditions as he considers appropriate, authorize the Minister to impose on a third party a requirement under subsection (4) relating to an unnamed person or more than one unnamed person (in this section referred to as the "group") where the judge is satisfied by information on oath that

- (a) the person or group is ascertainable;
- (b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Part;
- (c) it is reasonable to expect, based on any grounds, including information (statistical or otherwise) or past experience relating to the group or any other persons, that the person or any person in the group may have failed or may be likely to fail to provide information that

(4) Nonobstant les autres dispositions de la présente loi, le ministre peut, sous réserve du paragraphe (5) et pour l'application et l'exécution de la présente partie, par avis signifié à personne ou envoyé par courrier recommandé ou certifié, exiger d'une personne, dans le délai raisonnable que précise l'avis,

- a) qu'elle fournisse des renseignements ou suppléments de renseignements, notamment sur questionnaire ou questionnaire supplémentaire;
- b) qu'elle produise des documents.

Production de
documents ou
fourniture de
renseignements

(5) Le ministre ne peut exiger de quiconque — appelé «tiers» au présent article — la fourniture de renseignements ou production de documents prévue au paragraphe (4) concernant une personne ou plusieurs personnes non désignées nommément, sans y être au préalable autorisé par un juge en vertu du paragraphe (6).

Personnes non
désignées
nominément

(6) Sur requête *ex parte* du ministre, un juge peut, aux conditions qu'il estime indiquées, autoriser le ministre à exiger d'un tiers la fourniture de renseignements ou production de documents prévue au paragraphe (4) concernant une personne non désignée nommément ou plus d'une personne non désignée nommément — appelée «groupe» au présent article —, s'il est convaincu, sur dénonciation sous serment, de ce qui suit :

- a) cette personne ou ce groupe est identifiable;
- b) la fourniture ou la production est exigée pour vérifier si cette personne ou les personnes de ce groupe ont respecté quelque devoir ou obligation prévu par la présente partie;
- c) il est raisonnable de s'attendre — pour n'importe quel motif, notamment des renseignements (statistiques ou autres) ou l'expérience antérieure, con-

Autorisation
judiciaire

	<p>is sought pursuant to the requirement or to otherwise comply with this Act; and</p> <p>(d) the information or document is not otherwise more readily available.</p>	<p>cernant ce groupe ou toute autre personne — à ce que cette personne ou une personne de ce groupe n'ait pas fourni les renseignements exigés ou ne les fournisse vraisemblablement pas ou n'ait pas respecté par ailleurs la présente loi ou ne la respecte vraisemblablement pas;</p> <p>d) il n'est pas possible d'obtenir plus facilement les renseignements ou les documents.</p>	5 10	
Service of authorization	<p>(7) Where an authorization is granted under subsection (6), the authorization shall be served together with the notice referred to in subsection (4).</p>	<p>(7) L'autorisation accordée en vertu du paragraphe (6) doit être jointe à l'avis visé au paragraphe (4).</p>	5	Signification ou envoi de l'autorisation
Review of authorization	<p>(8) Where an authorization is granted under subsection (6), a third party on whom a notice is served under subsection (4) may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, where the judge is unable to act, to another judge of the same court for a review of the authorization.</p>	<p>(8) Le tiers à qui un avis est signifié ou envoyé conformément au paragraphe (4) peut, dans les 15 jours suivant la date de signification ou d'envoi, demander au juge qui a accordé l'autorisation prévue au paragraphe (6) ou, en cas d'incapacité de celui-ci, à un autre juge du même tribunal de réviser l'autorisation.</p>	15 20	Révision de l'autorisation
Powers on review	<p>(9) On the hearing of an application under subsection (8), a judge may cancel the authorization previously granted if he is not then satisfied that the conditions in paragraphs (6)(a) to (d) have been met and he may confirm or vary the authorization if he is satisfied that those conditions have been met.</p>	<p>(9) À l'audition de la requête prévue au paragraphe (8), le juge peut annuler l'autorisation accordée antérieurement s'il n'est pas convaincu de l'existence des conditions prévues aux alinéas (6)a) à d). Il peut la confirmer ou la modifier s'il est convaincu de leur existence.</p>	25	Pouvoir de révision
Additional remedy	<p>(10) Where a person is found guilty of an offence under subsection 88(2) for failing to comply with a requirement under subsection (4), the court may make such order as it deems proper in order to enforce compliance with the requirement.</p>	<p>(10) Le tribunal peut rendre l'ordonnance qu'il estime indiquée pour faire respecter l'exigence de fourniture de renseignements ou production de documents prévue au paragraphe (4), lorsqu'une personne est déclarée coupable d'infraction au paragraphe 88(2) pour n'avoir pas obtempéré à cette exigence.</p>	30	Ordonnance d'exécution
Copies as evidence	<p>(11) Where any document is inspected, examined or provided in accordance with this section, the person by whom it is inspected or examined or to whom it is provided or any officer of the Department of National Revenue, Taxation, may make, or cause to be made, one or more copies thereof and any document purporting to be certified by the Minister or an authorized person to be a copy made pur-</p>	<p>(11) Lorsque des documents sont inspectés, examinés ou produits conformément au présent article, la personne qui fait cette inspection ou cet examen ou à qui est faite cette production ou tout fonctionnaire du ministère du Revenu national pour l'impôt peut en faire ou en faire faire une ou plusieurs copies. Les documents présentés comme documents que le ministre ou une personne autorisée atteste être</p>	40 45	Copies

suant to this section is evidence of the nature and content of the original document and has the same probative force as the original document would have if it were proven in the ordinary way.

Compliance

(12) No person shall hinder, molest or interfere with any person doing anything that he is authorized to do by or pursuant to this section or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other Act or law, every person shall, unless he is unable to do so, do everything he is required to do by or pursuant to this section."

1984, c. 1, s. 124

137. (1) Section 80 of the said Act is repealed and the following substituted therefor:

Provisions of Income Tax Act applicable

"80. Sections 224 to 224.3 and subsection 248(11) of the *Income Tax Act* apply to all premiums, interest, penalties and other amounts payable by a person under this Part with such modifications as the circumstances require."

(2) Subsection (1) shall come into force on a day to be fixed by proclamation.

138. (1) Section 81 of the said Act is repealed.

(2) Subsection (1) shall come into force on a day to be fixed by proclamation.

1980-81-82-83, c. 47, s. 49

139. Subsections 112(10) to (13) of the said Act are repealed and the following substituted therefor:

Inspections

"(10) An authorized person may, at all reasonable times, for any purpose relating to the administration or enforcement of this Act other than Part IV, inspect, or examine any document that relates or may relate to the information that is or should be contained in the records or books of account or to the amount of any benefit payable under this Act and, for those purposes, the authorized person may

(a) subject to subsection (11), enter any premises or place where he reasonably believes persons are or were employed or

des copies faites conformément au présent article font preuve de la nature et du contenu des documents originaux et ont la même force probante qu'auraient ceux-ci si leur authenticité était prouvée de la façon usuelle.

(12) Nul ne doit entraver, rudoyer ou contrecarrer une personne qui fait une chose qu'elle est autorisée à faire en vertu et en conformité du présent article, ni empêcher ou tenter d'empêcher une personne de faire une telle chose. Nonobstant les dispositions de toute autre loi ou toute autre règle de droit, quiconque tenu par le présent article de faire quelque chose doit le faire, sauf impossibilité."

Observation du présent article

137. (1) L'article 80 de la même loi est abrogé et remplacé par ce qui suit :

1984, ch. 1, art. 124

"80. Les articles 224 à 224.3 et le paragraphe 248(11) de la *Loi de l'impôt sur le revenu* s'appliquent aux cotisations, intérêts, pénalités et autres montants payables par une personne en vertu de la présente partie, avec les adaptations nécessaires."

Dispositions de la Loi de l'impôt sur le revenu applicables

(2) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.

138. (1) L'article 81 de la même loi est abrogé.

(2) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.

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139. Les paragraphes 112(10) à (13) de la même loi sont abrogés et remplacés par ce qui suit :

1980-81-82-83, ch. 47, art. 49

"(10) Une personne autorisée peut, en tout temps raisonnable, pour l'application et l'exécution de la présente loi à l'exception de la partie IV, inspecter, vérifier ou examiner tous documents qui se rapportent ou peuvent se rapporter soit aux renseignements qui figurent dans ces registres ou livres ou qui devraient y figurer, soit au montant de toute prestation payable en vertu de la présente loi; à ces fins, elle peut :

Enquêtes

a) sous réserve du paragraphe (11), pénétrer dans un lieu où elle est fondée à

	<p>where any records or books of account are or should be kept; and</p> <p>(b) require the owner, occupant or person in charge of the premises or place to give him all reasonable assistance and to answer all proper questions relating to the administration or enforcement of this Act other than Part IV and, for that purpose, require the owner, occupant or person in charge of the premises or place to attend at such premises or place with him.</p>	<p>croire que des personnes exercent ou ont exercé un emploi ou que des registres ou des livres de comptabilité sont tenus ou devraient l'être;</p> <p>b) requérir le propriétaire, occupant ou responsable du lieu de lui fournir toute l'aide raisonnable, de répondre à toutes les questions pertinentes à l'application et l'exécution de la présente loi à l'exception de la partie IV et, à cette fin, requérir le propriétaire, occupant ou responsable de l'accompagner sur le lieu.</p>
Prior authorization	<p>(11) Where a premises or place referred to in subsection (10) is a dwelling-house, an authorized person may not enter that dwelling-house without the consent of the occupant except under the authority of a warrant under subsection (12).</p>	<p>(11) Lorsque le lieu mentionné au paragraphe (10) est une maison d'habitation, une personne autorisée ne peut y pénétrer sans la permission de l'occupant, à moins d'y être autorisée par un mandat décerné en vertu du paragraphe (12).</p>
Application	<p>(12) Where, on <i>ex parte</i> application by the Commission, a judge is satisfied by information on oath</p> <p>(a) that there are reasonable grounds to believe that a dwelling-house is a premises or place referred to in subsection (10),</p> <p>(b) that entry into the dwelling-house is necessary for any purpose relating to the administration or enforcement of any Part of this Act, other than Part IV, and</p> <p>(c) that entry into the dwelling-house has been refused or that there are reasonable grounds to believe that entry thereto will be refused,</p> <p>he shall issue a warrant authorizing an authorized person to enter that dwelling-house subject to such conditions as may be specified in the warrant but, where the judge is not satisfied that entry into that dwelling-house is necessary for any purpose relating to the administration or enforcement of this Act, other than Part IV, he shall</p> <p>(d) order the occupant of the dwelling-house to provide reasonable access to an authorized person to any document that is or should be kept therein, and</p> <p>(e) make such other order as is appropriate in the circumstances to carry out</p>	<p>(12) Sur requête <i>ex parte</i> de la Commission, le juge saisi décerne un mandat qui autorise une personne autorisée à pénétrer dans une maison d'habitation aux conditions que peut préciser le mandat, s'il est convaincu, sur déclaration sous serment, de ce qui suit :</p> <p>a) il existe des motifs raisonnables de croire qu'une maison d'habitation est un lieu mentionné au paragraphe (10);</p> <p>b) il est nécessaire d'y pénétrer pour l'application et l'exécution de la présente loi à l'exception de la partie IV;</p> <p>c) un refus d'y pénétrer a été opposé ou il existe des motifs raisonnables de croire qu'un tel refus sera opposé.</p> <p>Dans la mesure où un refus de pénétrer dans la maison d'habitation a été opposé ou pourrait l'être et où les documents sont gardés dans la maison d'habitation ou pourraient l'être, le juge qui n'est pas convaincu qu'il est nécessaire de pénétrer dans la maison d'habitation pour l'application et l'exécution de la présente loi à l'exception de la partie IV, doit ordonner à l'occupant de la maison d'habitation de permettre à une personne autorisée d'avoir raisonnablement accès à tous documents qui sont gardés dans la maison d'habitation ou devraient y être gardés et rend toute autre ordonnance indiquée en l'es-</p>

the purposes of this Act, other than Part IV,

to the extent that access has or may be expected to be refused and that the document is or may be expected to be kept in the dwelling-house. 5

Requirement to provide documents and information

(13) Notwithstanding any other provision of this Act, the Commission may, subject to subsection (14), for any purpose relating to the administration or enforcement of this Act, other than Part IV, by notice served personally, or by registered or certified mail require that any person provide, within such reasonable time as is stipulated in the notice, 10 15

(a) any information or additional information including any information return or supplementary return; or

(b) any document.

Unnamed Persons

(14) The Commission shall not impose on any person (in this section referred to as a "third party") a requirement under subsection (13) to provide information or any document relating to one or more unnamed persons unless it first obtains the authorization of a judge under subsection (15). 20 25

Judicial Authorization

(15) On *ex parte* application by the Commission, a judge may, subject to such conditions as he considers appropriate, authorize the Commission to impose on a third party a requirement under subsection (13) relating to an unnamed person or more than one unnamed person (in this section referred to as the "group") where the judge is satisfied by information on oath that 30 35

(a) the person or group is ascertainable;

(b) the requirement is made to verify compliance by the person or persons in the group with any duty or obligation under this Act, other than Part IV; 40

(c) it is reasonable to expect, based on any grounds, including information (statistical or otherwise) or past experience relating to the group or any other persons, that the person or any person in the group may have failed or may be 45

pèce pour l'application de la présente loi à l'exception de la partie IV.

(13) Nonobstant les autres dispositions de la présente loi, la Commission peut, sous réserve du paragraphe (14) et pour l'application et l'exécution de la présente loi à l'exception de la partie IV, par avis signifié à personne ou envoyé par courrier recommandé ou certifié, exiger d'une personne, dans le délai raisonnable que précise l'avis, 5 10

Production de documents ou fourniture de renseignements

a) qu'elle fournisse des renseignements ou suppléments de renseignements, notamment sur questionnaire ou questionnaire supplémentaire; 15

b) qu'elle produise des documents.

(14) La Commission ne peut exiger de quiconque — appelé «tiers» au présent article — la fourniture de renseignements ou production de documents prévue au paragraphe (13) concernant une ou plusieurs personnes non désignées nommément, sans y être au préalable autorisée par un juge en vertu du paragraphe (15). 20

Personnes non désignées nommément

(15) Sur requête *ex parte* de la Commission, un juge peut, aux conditions qu'il estime indiquées, autoriser celle-ci à exiger d'un tiers la fourniture ou production prévue au paragraphe (13) concernant une personne non désignée nommément ou plus d'une personne non désignée nommément — appelée «groupe» au présent article —, s'il est convaincu, sur dénonciation sous serment, de ce qui suit : 25 30 35

Autorisation judiciaire

a) cette personne ou ce groupe est identifiable; 35

b) la fourniture ou la production est exigée pour vérifier si cette personne ou les personnes de ce groupe ont respecté quelque devoir ou obligation prévu par la présente loi à l'exception de la partie IV; 40

c) il est raisonnable de s'attendre — pour n'importe quel motif, notamment des renseignements (statistiques ou 45

likely to fail to provide information that is sought pursuant to the requirement or to otherwise comply with this Act; and
(d) the information or document is not otherwise more readily available. 5

autres) ou l'expérience antérieure, concernant ce groupe ou toute autre personne — à ce que cette personne ou une personne de ce groupe n'ait pas fourni les renseignements exigés ou ne les fournisse vraisemblablement pas ou n'ait pas respecté par ailleurs la présente loi ou ne la respecte vraisemblablement pas;
d) il n'est pas possible d'obtenir plus facilement les renseignements ou les documents. 10

Service of
authorization

(16) Where an authorization is granted under subsection (15), the authorization shall be served together with the notice referred to in subsection (13).

(16) L'autorisation accordée en vertu du paragraphe (15) doit être jointe à l'avis visé au paragraphe (13).

Signification ou
envoi de
l'autorisation

Review of
authorization

(17) Where an authorization is granted 10 under subsection (15), a third party on whom a notice is served under subsection (13) may, within 15 days after the service of the notice, apply to the judge who granted the authorization or, where the 15 judge is unable to act, to another judge of the same court for a review of the authorization.

(17) Le tiers à qui un avis est signifié ou 15 envoyé conformément au paragraphe (13) peut, dans les 15 jours de la date de signification ou d'envoi, demander au juge qui a accordé l'autorisation prévue au paragraphe (15) ou, en cas d'incapacité de 20 celui-ci, à un autre juge du même tribunal de réviser l'autorisation.

Révision de
l'autorisation

Powers on
review

(18) On hearing an application under subsection (17), a judge may cancel the 20 authorization previously granted if he is not then satisfied that the conditions in paragraphs (15)(a) to (d) have been met and he may confirm or vary the authorization if he is satisfied that those conditions 25 have been met.

(18) À l'audition de la requête prévue au paragraphe (17), le juge peut annuler l'autorisation accordée antérieurement s'il 25 n'est pas convaincu de l'existence des conditions prévues aux alinéas (15)a) à d). Il peut la confirmer ou la modifier s'il est convaincu de leur existence.

Pouvoir de
révision

Copies as
evidence

(19) Where any document is inspected, examined or provided in accordance with subsection (10) or (13), the person by whom it is inspected or examined or to 30 whom it is provided or any officer of the Commission may make, or cause to be made, one or more copies thereof and any document purporting to be certified by the Commission or an authorized person to be 35 a copy made pursuant to this subsection is evidence of the nature and content of the original document and has the same probative force as the original document would have if it were proven in the ordi- 40 nary way.

(19) Lorsque des documents sont ins- 30 pectés, examinés ou produits conformément au paragraphe (10) ou (13), la personne qui fait cette inspection ou cet examen ou à qui est faite cette production ou tout fonctionnaire de la Commission 35 peut en faire ou en faire faire une ou plusieurs copies. Les documents présentés comme documents que la Commission ou une personne autorisée atteste être des copies faites conformément au présent 40 paragraphe font preuve de la nature et du contenu des documents originaux et ont la même force probante qu'auraient ceux-ci si leur authenticité était prouvée de la façon usuelle. 45

Copies

Compliance	(20) No person shall hinder, molest or interfere with any person doing anything that he is authorized to do by or pursuant to this section or prevent or attempt to prevent any person doing any such thing and, notwithstanding any other Act or law, every person shall, unless he is unable to do so, do everything he is required to do by or pursuant to this section.	5	(20) Nul ne doit entraver, rudoyer ou contrecarrer une personne qui fait une chose qu'elle est autorisée à faire en vertu et en conformité du présent article, ni empêcher ou tenter d'empêcher une personne de faire une telle chose. Nonobstant les dispositions de toute autre loi ou toute autre règle de droit, quiconque tenu par le présent article de faire quelque chose doit le faire, sauf impossibilité.	10	Observation du présent article
Definitions	(21) In this section,	10	(21) Les définitions qui suivent s'appliquent au présent article.		Définitions
"authorized person" «personne autorisée»	"authorized person" means a person authorized in writing by the Commission for the purposes of this section;		«documents» Sont compris dans documents, qu'ils soient informatisés ou non, les registres, les livres de comptabilité, les écrits, les pièces justificatives, les factures, les comptes et les états (financiers ou non).	15	«documents» "documents"
"documents" «documents»	"documents" includes any of the following, whether computerized or not: books, records, writings, vouchers, invoices, accounts and statements (financial or otherwise);	15	«juge» Juge d'une cour supérieure compétente de la province où l'affaire prend naissance ou juge de la Cour fédérale.	20	«juge» "judge"
"dwelling-house" «maison d'habitation»	"dwelling-house" means the whole or any part of a building or structure that is kept or occupied as a permanent or temporary residence and includes (a) a building within the curtilage of a dwelling-house that is connected to it by a doorway or by a covered and enclosed passageway, and (b) a unit that is designed to be mobile and to be used as a permanent or temporary residence and that is being used as such a residence;	20	«maison d'habitation» Tout ou partie de quelque bâtiment ou construction tenu ou occupé comme résidence permanente ou temporaire, y compris : a) un bâtiment qui se trouve dans la même enceinte qu'une maison d'habitation et qui y est relié par une baie de porte ou par un passage couvert et clos; b) une unité conçue pour être mobile et pour être utilisée comme résidence permanente ou temporaire et qui est ainsi utilisée.	25	«maison d'habitation» "dwelling house"
"judge" «juge»	"judge" means a judge of a superior court having jurisdiction in the province where the matter arises or a judge of the Federal Court."	30	«personne autorisée» Personne autorisée par écrit par la Commission pour l'application du présent article.	35	«personne autorisée» "authorized person"
1976-77, c. 54, s. 60	140. Section 113 of the said Act is repealed.	35	140. L'article 113 de la même loi est abrogé.		1976-77, ch. 54, art. 60

PART VI

PARTIE VI

R.S., c. F-10	FINANCIAL ADMINISTRATION ACT	LOI SUR L'ADMINISTRATION FINANCIÈRE	S.R., ch. F-10
1984, c. 31, s. 13	141. (1) Subsection 160(1) of the <i>Financial Administration Act</i> is repealed and the following substituted therefor:	141. (1) Le paragraphe 160(1) de la <i>Loi sur l'administration financière</i> est abrogé et remplacé par ce qui suit :	1984, ch. 31, art. 13

No charge for
certain cheques

“160. (1) No bank shall make a charge for cashing a cheque or other instrument drawn on the Receiver General or on his account in the Bank of Canada or any other bank, or for cashing any other instrument issued as authority for the payment of money out of the Consolidated Revenue Fund.”

(2) Subsection (1) shall come into force on a day to be fixed by proclamation.

«160. (1) Nulle banque ne peut exiger une rétribution pour l'encaissement d'un chèque ou autre effet tiré sur le receveur général ou sur son compte à la Banque du Canada ou à toute autre banque, ni pour l'encaissement d'un autre effet émis pour autoriser le paiement de deniers sur le Trésor.»

(2) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.

Chèques sans
frais

PART VII

PETROLEUM AND GAS REVENUE TAX ACT

142. Section 106 of the *Petroleum and Gas Revenue Tax Act* is repealed and the following substituted therefor:

“106. Sections 231 to 231.5 of the *Income Tax Act* apply in respect of the administration and enforcement of this Part, as if the reference in paragraph 231.2(1)(a) thereof to a “return of income” were read as a reference to “a return of production revenue”.

143. All that portion of subsection 109(2) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

“(2) Every person who fails to comply with or contravenes subsection 99(2) or any provision of sections 231.1 to 231.5 of the *Income Tax Act* as it applies to the administration and enforcement of this Part is guilty of an offence and, in addition to any penalty otherwise provided, liable on summary conviction”

PARTIE VII

LOI DE L'IMPÔT SUR LES REVENUS PÉTROLIERS

142. L'article 106 de la *Loi de l'impôt sur les revenus pétroliers* est abrogé et remplacé par ce qui suit :

«106. Les articles 231 à 231.5 de la *Loi de l'impôt sur le revenu s'appliquent* pour l'exécution de la présente partie comme si la mention «déclaration de revenu» à l'alinéa 231.2(1)a) de cette loi était remplacée par la mention «déclaration de revenu de production».

143. Le passage du paragraphe 109(2) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«(2) Quiconque omet d'observer ou enfreint le paragraphe 99(2) ou toute disposition des articles 231.1 à 231.5 de la *Loi de l'impôt sur le revenu* qui s'applique pour l'exécution de la présente partie est coupable d'une infraction et, en plus de toute autre peine prévue par ailleurs, est passible, sur déclaration sommaire de culpabilité,»

1980-81-82-83,
ch. 68 (Partie
IV, art. 78 à
117)

Enquêtes

Idem

Inspections and
investigations

Idem

SCHEDULE
(Subsection 31(2))

1. (1) Paragraph 20(1)(v.1) is repealed and the following substituted therefor:

“(v.1) such amount as is allowed to the taxpayer for the year by regulation in respect of natural accumulations of petroleum or natural gas in Canada, oil or gas wells in Canada or mineral resources in Canada;”

(2) All that portion of subsection 20(15) preceding paragraph (b) thereof is repealed and the following substituted therefor:

“(15) For greater certainty it is hereby declared that, in the case of a regulation made under paragraph (1)(v.1) allowing to a taxpayer an amount in respect of 15 natural accumulations of petroleum or natural gas in Canada, oil or gas wells in Canada or mineral resources in Canada,

(a) there may be allowed to the taxpayer by such regulation an amount in respect of any or all such accumulations, wells or resources; and”

2. (1) Paragraph 65(1)(a) is repealed and the following substituted therefor:

“(a) a natural accumulation of petroleum or natural gas, oil or gas well, mineral resource or timber limit,”

(2) All that portion of subsection 65(2) preceding paragraph (a) thereof is repealed and the following substituted therefor:

“(2) For greater certainty it is hereby declared that, in the case of a regulation made under subsection (1) allowing to a taxpayer an amount in respect of a natural accumulation of petroleum or natural gas, an oil or gas well or a mineral resource or in respect of the processing of ore,”

(3) Subparagraph 65(2)(a)(i) is repealed and the following substituted therefor:

“(i) natural accumulations of petroleum or natural gas, oil or gas wells or mineral resources in which the taxpayer has any interest, or”

ANNEXE
(paragraphe 31(2))

1. (1) L'alinéa 20(1)v.1) est abrogé et remplacé par ce qui suit :

«v.1) les sommes que le contribuable est autorisé, par règlement, à déduire pour l'année au titre de gisements naturels de pétrole ou de gaz naturel, de puits de pétrole ou de gaz ou de ressources minérales, situés au Canada;»

(2) Le passage du paragraphe 20(15) précède l'alinéa b) est abrogé et remplacé par ce qui suit :

«(15) Il est entendu que, dans le cas d'un règlement pris en vertu de l'alinéa (1)v.1) qui permet à un contribuable de déduire une somme au titre de gisements naturels de pétrole ou de gaz naturel, de puits de pétrole ou de gaz ou de ressources minérales, situés au Canada,

a) il peut être permis au contribuable, par ce règlement, de déduire une somme au titre de tout ou partie de ces gisements, puits ou ressources; et»

2. (1) L'alinéa 65(1)a) est abrogé et remplacé par ce qui suit :

«a) d'un gisement naturel de pétrole ou de gaz naturel, d'un puits de pétrole ou de gaz, de ressources minérales ou d'une concession forestière;»

(2) Le passage du paragraphe 65(2) qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«(2) Il est entendu que, dans le cas d'un règlement pris en vertu du paragraphe (1) qui permet à un contribuable de déduire une somme au titre d'un gisement naturel de pétrole ou de gaz naturel, d'un puits de pétrole ou de gaz ou de ressources minérales ou au titre de la transformation de minerais,»

(3) Le sous-alinéa 65(2)a)(i) est abrogé et remplacé par ce qui suit :

«(i) des gisements naturels de pétrole ou de gaz naturel, des puits de pétrole ou de gaz ou des ressources minérales,

Resource
allowance

Déduction en
matière de
ressources

Regulations

Règlements

Regulations

Règlements

dans lesquels le contribuable a un droit, ou»

3. (1) Clauses 66(4)(b)(ii)(A) and (B) are repealed and the following substituted therefor:

“(A) such part of his income for the taxation year as may reasonably be regarded as attributable to the production of petroleum or natural gas from natural accumulations thereof outside Canada or from oil or gas wells outside Canada or to the production of minerals from mines outside Canada, (B) his income for the taxation year from royalties in respect of a natural accumulation of petroleum or natural gas outside Canada, an oil or gas well outside Canada or a mine outside Canada, and”

(2) Subparagraph 66(6)(b)(ii) is repealed and the following substituted therefor:

“(ii) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the predecessor had, immediately before the acquisition by the successor corporation of the property so acquired, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and”

(3) Subparagraph 66(7)(b)(ii) is repealed and the following substituted therefor:

“(ii) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the predecessor of the first successor corporation, within the meaning of subsection (6), had, immediately before the acquisition by the first successor corporation of the

3. (1) Les divisions 66(4)b)(ii)(A) et (B) sont abrogées et remplacées par ce qui suit :

«(A) la partie de son revenu pour l'année d'imposition qu'il est raisonnable de considérer comme attribuable à la production de pétrole ou de gaz naturel tiré de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz, situés à l'extérieur du Canada, ou à la production de minéraux provenant de mines situées à l'extérieur du Canada, (B) son revenu pour l'année d'imposition tiré de redevances afférentes à un gisement naturel de pétrole ou de gaz naturel, à un puits de pétrole ou de gaz ou à une mine, situés à l'extérieur du Canada, et»

(2) Le sous-alinéa 66(6)b)(ii) est abrogé et remplacé par ce qui suit :

«(ii) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à la production de minéraux provenant de mines, situés sur des biens au Canada à l'égard desquels le prédécesseur avait, immédiatement avant l'acquisition par la corporation remplaçante des biens ainsi acquis, un droit afférent à l'extraction ou à l'enlèvement du pétrole, du gaz naturel ou des minéraux, et»

(3) Le sous-alinéa 66(7)b)(ii) est abrogé et remplacé par ce qui suit :

«(ii) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à la production de minéraux provenant de mines, situés sur des biens au Canada à l'égard desquels le prédécesseur de la première corporation remplaçante, au sens du paragraphe (6), avait, immédiatement avant l'ac-

property so acquired by the second successor corporation, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and”

5

(4) Subparagraph 66(11.1)(f)(iii) is repealed and the following substituted therefor:

“(iii) the production referred to in subparagraphs (6)(b)(ii), 10 66.1(4)(b)(ii), 66.2(3)(b)(i) and 66.4(3)(b)(i) shall be deemed to include the production of petroleum or natural gas from natural accumulations thereof or from oil or gas 15 wells, and the production of minerals from mines, situated on property in respect of which the corporation had, in the year and before that time, an interest or a right to take or remove 20 petroleum or natural gas or a right to take or remove minerals.”

(5) Subparagraphs 66(15)(c)(iii) and (iv) are repealed and the following substituted therefor:

25

“(iii) any oil or gas well in Canada or any real property in Canada the principal value of which depends upon its petroleum or natural gas content (but not including any depreciable prop- 30 erty used or to be used in connection with the extraction or removal of petroleum or natural gas therefrom), (iv) any rental or royalty computed by reference to the amount or value of 35 production from an oil or gas well in Canada or from a natural accumulation of petroleum or natural gas in Canada,”

4. (1) Subparagraph 66.1(4)(b)(ii) is 40 repealed and the following substituted therefor:

“(ii) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, 45 or the production of minerals from mines, situated on property in Canada

quisition par la première corporation remplaçante des biens ainsi acquis par la seconde corporation remplaçante, un droit afférent à l'extraction ou à l'enlèvement du pétrole, du gaz natu- 5 rel ou des minéraux, et»

(4) Le sous-alinéa 66(11.1)f)(iii) est abrogé et remplacé par ce qui suit :

«(iii) la production visée aux sous-alinéas (6)b)(ii), 66.1(4)b)(ii), 10 66.2(3)b)(i) et 66.4(3)b)(i) est réputée comprendre la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou 15 de gaz et la production de minéraux provenant de mines, situés sur des biens à l'égard desquels la corporation avait, dans l'année et avant cette date, un droit afférent à l'extraction ou à 20 l'enlèvement du pétrole, du gaz naturel ou des minéraux.»

(5) Les sous-alinéas 66(15)c)(iii) et (iv) sont abrogés et remplacés par ce qui suit :

«(iii) tout puits de pétrole ou de gaz 25 ou tout bien immobilier, situé au Canada et dont la principale valeur dépend de sa teneur en pétrole ou en gaz naturel (à l'exclusion de tout bien amortissable utilisé ou à utiliser dans 30 le cadre de l'extraction ou de l'enlèvement du pétrole ou du gaz naturel provenant de ce bien), (iv) tout loyer ou toute redevance, calculé en fonction du volume ou de la 35 valeur de la production d'un puits de pétrole ou de gaz ou d'un gisement naturel de pétrole ou de gaz naturel, situé au Canada,»

4. (1) Le sous-alinéa 66.1(4)b)(ii) est 40 abrogé et remplacé par ce qui suit :

«(ii) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à 45 la production de minéraux provenant

in respect of which the predecessor had, immediately before the acquisition by the successor corporation of the property so acquired, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and”

(2) Subparagraph 66.1(5)(b)(ii) is repealed and the following substituted therefor:

“(ii) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the predecessor of the first successor corporation, within the meaning of subsection (4), had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and”

5. (1) Subparagraph 66.2(3)(b)(i) is repealed and the following substituted therefor:

“(i) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the predecessor had, immediately before the acquisition by the successor corporation of the property so acquired, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and”

(2) Subparagraph 66.2(4)(b)(i) is repealed and the following substituted therefor:

“(i) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from

de mines, situés sur des biens au Canada à l’égard desquels le prédécesseur avait, immédiatement avant l’acquisition par la corporation remplaçante des biens ainsi acquis, un droit afférent à l’extraction ou à l’enlèvement du pétrole, du gaz naturel ou des minéraux, et»

(2) Le sous-alinéa 66.1(5)b)(ii) est abrogé et remplacé par ce qui suit :

«(ii) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à la production de minéraux provenant de mines, situés sur des biens au Canada à l’égard desquels le prédécesseur de la première corporation remplaçante, au sens du paragraphe (4), avait, immédiatement avant l’acquisition par la première corporation remplaçante des biens ainsi acquis par la seconde corporation remplaçante, un droit afférent à l’extraction ou à l’enlèvement du pétrole, du gaz naturel ou des minéraux, et»

5. (1) Le sous-alinéa 66.2(3)b)(i) est abrogé et remplacé par ce qui suit :

«(i) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à la production de minéraux provenant de mines, situés sur des biens au Canada à l’égard desquels le prédécesseur avait, immédiatement avant l’acquisition par la corporation remplaçante des biens ainsi acquis, un droit afférent à l’extraction ou à l’enlèvement du pétrole, du gaz naturel ou des minéraux, et»

(2) Le sous-alinéa 66.2(4)b)(i) est abrogé et remplacé par ce qui suit :

«(i) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à

mines, situated on property in Canada in respect of which the predecessor of the first successor corporation had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and” 10

6. (1) Subparagraph 66.4(3)(b)(i) is repealed and the following substituted therefor:

“(i) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the predecessor had, immediately before the acquisition by the successor corporation of the property so acquired, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and” 25

(2) Subparagraph 66.4(4)(b)(i) is repealed and the following substituted therefor:

“(i) the production of petroleum or natural gas from natural accumulations thereof or from oil or gas wells, or the production of minerals from mines, situated on property in Canada in respect of which the predecessor of the first successor corporation had, immediately before the acquisition by the first successor corporation of the property so acquired by the second successor corporation, an interest or a right to take or remove petroleum or natural gas or a right to take or remove minerals, and” 40

7. (1) All that portion of subsection 69(6) preceding paragraph (a) thereof is repealed and the following substituted therefor:

la production de minéraux provenant de mines, situés sur des biens au Canada à l'égard desquels le prédécesseur de la première corporation remplaçante avait, immédiatement avant l'acquisition par la première corporation remplaçante des biens ainsi acquis par la seconde corporation remplaçante, un droit afférent à l'extraction ou à l'enlèvement du pétrole, du gaz naturel ou des minéraux, et» 5 10

6. (1) Le sous-alinéa 66.4(3)b)(i) est abrogé et remplacé par ce qui suit :

«(i) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à la production de minéraux provenant de mines, situés sur des biens au Canada à l'égard desquels le prédécesseur avait, immédiatement avant l'acquisition par la corporation remplaçante des biens ainsi acquis, un droit afférent à l'extraction ou à l'enlèvement du pétrole, du gaz naturel ou des minéraux, et» 15 20 25

(2) Le sous-alinéa 66.4(4)b)(i) est abrogé et remplacé par ce qui suit :

«(i) à la production de pétrole ou de gaz naturel provenant de gisements naturels de pétrole ou de gaz naturel ou de puits de pétrole ou de gaz ou à la production de minéraux provenant de mines, situés sur des biens au Canada à l'égard desquels le prédécesseur de la première corporation remplaçante avait, immédiatement avant l'acquisition par la première corporation remplaçante des biens ainsi acquis par la seconde corporation remplaçante, un droit afférent à l'extraction ou à l'enlèvement du pétrole, du gaz naturel ou des minéraux, et» 30 35 40 45

7. (1) Le passage du paragraphe 69(6) qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

Idem

“(6) Where a taxpayer who is an operator with respect to a natural accumulation of petroleum or natural gas in Canada, an oil or gas well in Canada or a mineral resource in Canada disposes by virtue of an obligation imposed by statute or a contractual obligation substituted for an obligation imposed by statute of any petroleum, natural gas or related hydrocarbons or metal or minerals produced in the operation to”

(2) All that portion of subsection 69(7) preceding paragraph (a) thereof is repealed and the following substituted therefor:

Idem

“(7) Where a taxpayer who is an operator with respect to a natural accumulation of petroleum or natural gas in Canada, an oil or gas well in Canada or a mineral resource in Canada acquires any petroleum, natural gas or related hydrocarbons or metal or minerals produced in the operation from”

8. Subparagraph 108(2)(b)(iii) is repealed and the following substituted therefor:

“(iii) at least 80% of its property throughout the year consisted of shares, bonds, mortgages, marketable securities, cash or rights to or interests in any rental or royalty computed by reference to the amount or value of production from a natural accumulation of petroleum or natural gas in Canada, from an oil or gas well in Canada or from a mineral resource in Canada,”

9. Subparagraph 125.1(3)(b)(iv) is repealed and the following substituted therefor:

“(iv) operating an oil or gas well, extracting petroleum or natural gas from a natural accumulation thereof or processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond the crude oil stage or its equivalent,”

Idem

“(6) Lorsqu’un contribuable qui exploite un gisement naturel de pétrole ou de gaz naturel, un puits de pétrole ou de gaz ou des ressources minérales, situés au Canada, dispose, en vertu d’une obligation légale ou d’une obligation contractuelle qui remplace une obligation légale, de pétrole, gaz naturel ou hydrocarbures apparentés ou de métal ou minéraux, produits dans le cadre de l’exploitation de ce gisement, de ce puits ou de ces ressources, en faveur»

(2) Le passage du sous-alinéa 69(7) qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :

15

Idem

“(7) Lorsqu’un contribuable qui exploite un gisement naturel de pétrole ou de gaz naturel, un puits de pétrole ou de gaz ou des ressources minérales, situés au Canada acquiert du pétrole, du gaz naturel ou des hydrocarbures apparentés ou du métal ou des minéraux, produits dans le cadre de l’exploitation de ce gisement, de ce puits ou de ces ressources,»

8. Le sous-alinéa 108(2)(b)(iii) est abrogé et remplacé par ce qui suit :

“(iii) tout au long de l’année, au moins 80 % de ses biens consistaient en actions, obligations, *mortgages*, hypothèques, valeurs négociables ou argent comptant, ou en droits sur toute valeur locative ou redevance, calculée par rapport à la quantité ou valeur de la production provenant d’un gisement naturel de pétrole ou de gaz naturel, d’un puits de pétrole ou de gaz ou de ressources minérales, situés au Canada,»

9. Le sous-alinéa 125.1(3)(b)(iv) est abrogé et remplacé par ce qui suit :

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“(iv) l’exploitation d’un puits de pétrole ou de gaz, l’extraction de pétrole ou de gaz naturel d’un gisement naturel de pétrole ou de gaz naturel ou la transformation du pétrole lourd extrait d’un réservoir naturel situé au Canada, jusqu’à un

stade qui ne dépasse pas celui du pétrole brut ou de son équivalent,»

10. Subparagraph (c)(ii) of the definition "qualified property" in subsection 127(9) is repealed and the following substituted therefor:

"(ii) operating an oil or gas well, 5 extracting petroleum or natural gas from a natural accumulation thereof or processing heavy crude oil recovered from a natural reservoir in Canada to a stage that is not beyond 10 the crude oil stage or its equivalent,"

11. Subparagraph 212(13.2)(b)(ii) is repealed and the following substituted therefor:

"(ii) operates an oil or gas well in 15 Canada or extracts petroleum or natural gas from a natural accumulation thereof in Canada, or"

10. Le sous-alinéa c)(ii) de la définition de «bien admissible», au paragraphe 127(9), est abrogé et remplacé par ce qui suit :

5

«(ii) l'exploitation d'un puits de pétrole ou de gaz, l'extraction de pétrole ou de gaz d'un gisement naturel de pétrole ou de gaz naturel ou la transformation du pétrole lourd 10 extrait d'un réservoir naturel situé au Canada, jusqu'à un stade qui ne dépasse pas celui du pétrole brut ou de son équivalent,»

11. Le sous-alinéa 212(13.2)b)(ii) est 15 abrogé et remplacé par ce qui suit :

«(ii) exploite un puits de pétrole ou de gaz au Canada ou extrait du pétrole ou du gaz naturel d'un gisement naturel de pétrole ou de gaz naturel au 20 Canada, ou»



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House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION
AVIS DE MOTION

WAYS AND MEANS
VOIES ET MOYENS

Monday, December 2, 1985
Le lundi 2 décembre 1985

**NOTICE OF WAYS AND MEANS MOTION
TO AMEND THE INCOME TAX ACT**

Canadian Exploration Expense Deduction

That it is expedient to amend the Income Tax Act and to provide that a Canadian exploration expense incurred by a taxpayer within 60 days after the end of the calendar year shall be deemed to have been incurred immediately before the end of that year where

- (a) the expense is incurred after December 31, 1985, is described in subparagraph 66.1(6)(a)(iii) of the said Act and is in respect of a mineral resource other than a bituminous sands deposit, oil sands deposit or oil shale deposit,
- (b) the expense is incurred by the taxpayer pursuant to an agreement described in subparagraph 66.1(6)(a)(v) of the said Act with a corporation and the agreement is entered into by the taxpayer and the corporation on or before the last day of that year,
- (c) the funds relating to the expense have been advanced by the taxpayer on or before the last day of that year, and
- (d) the taxpayer and the corporation are dealing with each other at arm's length.

**AVIS DE MOTION DES VOIES ET MOYENS
MODIFIANT LA LOI DE L'IMPÔT SUR LE
REVENU**

Déduction pour frais d'exploration au Canada

Qu'il y a lieu de modifier la Loi de l'impôt sur le revenu pour prévoir que les frais d'exploration au Canada engagés par un contribuable dans les 60 jours de la fin de l'année civile soient réputés avoir été engagés immédiatement avant la fin de cette année, dans le cas où:

- a) les frais sont engagés après le 31 décembre 1985, sont visés au sous-alinéa 66.1(6)a)(iii) de la même loi et se rapportent à une ressource minérale qui n'est pas un gisement de sables bitumineux, un gisement de sables pétrolifères ou un gisement de schistes bitumineux;
- b) les frais sont engagés par le contribuable conformément à une entente, visée au sous-alinéa 66.1(6)a)(v) de la même loi, conclue entre le contribuable et une corporation au plus tard le dernier jour de l'année;
- c) les fonds se rapportant aux frais ont été avancés par le contribuable au plus tard le dernier jour de cette année; et
- d) le contribuable et la corporation n'ont entre eux aucun lien de dépendance.

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House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION AVIS DE MOTION

WAYS AND MEANS VOIES ET MOYENS

Tuesday, November 26, 1985
Le mardi 26 novembre 1985

**NOTICE OF WAYS AND MEANS MOTION TO
AMEND THE INCOME TAX ACT**

That it is expedient to amend the Income Tax Act and to provide among other things:

Trust Deduction

(1) That for the 1986 and subsequent taxation years, no deduction be permitted by a trust in respect of its income that is payable to its beneficiaries unless

- (a) the trust is a testamentary trust or an inter vivos trust in which the interests of all beneficiaries were created for no consideration,
- (b) the interests of all beneficiaries of the trust are described by reference to units that are identical in all respects, or
- (c) all interests in the trust issued by it at any time to beneficiaries have been issued at or before 5:00 p.m. E.S.T. November 26, 1985.

Income Interest in Trust

(2) That the amount of the deduction available to an income beneficiary in respect of the cost of an income interest in a trust acquired after 5:00 p.m. E.S.T. November 26, 1985 be reduced by the amount that the beneficiary is entitled to deduct, in respect of its income from the trust, in computing its taxable income.

**AVIS DE MOTION DES VOIES ET MOYENS
VISANT À MODIFIER LA LOI DE L'IMPÔT SUR
LE REVENU**

Qu'il y a lieu de modifier la Loi de l'impôt sur le revenu pour prévoir entre autres choses :

Déduction accordée à une fiducie

(1) Que, pour les années d'imposition 1986 et suivantes, une fiducie n'ait droit à une déduction à l'égard de son revenu qui est payable à ses bénéficiaires que dans les cas suivants :

- a) la fiducie est une fiducie testamentaire ou une fiducie non testamentaire dont les participations de tous les bénéficiaires ont été créées sans contrepartie;
- b) les participations de tous les bénéficiaires de la fiducie sont fonction d'unités qui sont identiques à tous égards; ou
- c) les participations dans la fiducie émises par celle-ci, à une date quelconque, à ses bénéficiaires l'ont été à 17h, le 26 novembre 1985, ou avant.

Participation au revenu d'une fiducie

(2) Que le montant qu'un bénéficiaire du revenu d'une fiducie peut déduire au titre du coût d'une participation au revenu de la fiducie, acquise après 17h, le 26 novembre 1985, soit réduit du montant que le bénéficiaire a le droit de déduire, dans le calcul de son revenu imposable, au titre de son revenu tiré de la fiducie.



House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION AVIS DE MOTION

WAYS AND MEANS VOIES ET MOYENS

Wednesday, December 4, 1985
Le mercredi 4 décembre 1985

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE INCOME TAX ACT

That it is expedient to amend the Income tax Act and to provide among other things:

Minimum Tax

(1) That, for taxation years commencing after 1985, the tax otherwise payable under Part I of the Act by an individual (other than a mutual fund trust) not be less than a minimum amount computed by reference to his adjusted taxable income for the year and, for this purpose,

(a) “minimum amount” in respect of an individual for a taxation year, generally means the amount by which 17% of his adjusted taxable income for the year exceeds the total of his child tax credit and foreign tax credits for the year and the refundable portion of investment tax credits earned by him in the year, and
(b) “adjusted taxable income” of an individual (other than a trust) for a taxation year generally means the amount that would be his taxable income for the year in excess of \$40,000 if

- (i) one-half of net capital gains exempt under the \$500,000 lifetime capital gains exemption were included in taxable income,
- (ii) the full amount of net capital gains (other than net capital gains exempt under the \$500,000 lifetime capital gains exemption) and the full amount of various half-income-inclusion items and capital dividends were included in taxable income,
- (iii) deductions were denied for losses on certain tax-shelter investments and contributions to registered pension and registered retirement savings plans, and
- (iv) the only deductions from income in computing taxable income were in respect of personal exemptions, disability and education (except to the extent that such deductions are transferred from another person) and in respect of gifts to the Crown, charitable contributions, medical expenses, certain losses of other years and a forward averaging election,

AVIS DE MOTION DES VOIES ET MOYENS VISANT À MODIFIER LA LOI DE L'IMPÔT SUR LE REVENU

Qu'il y a lieu de modifier la Loi de l'impôt sur le revenu pour prévoir entre autres choses:

Impôt minimum

(1) Que, pour les années d'imposition commençant après 1985, l'impôt payable par ailleurs par un particulier—à l'exception d'une fiducie de fonds mutuels—en vertu de la partie I de la loi ne soit pas inférieur à un montant minimum calculé en fonction du revenu imposable modifié du particulier pour l'année; à cette fin:

a) «montant minimum» concernant un particulier pour une année d'imposition s'entend, de façon générale, de l'excédent du montant correspondant à 17 % du revenu imposable modifié du particulier pour l'année sur le total de ses crédits d'impôt pour enfants et pour impôt étranger pour l'année et de la partie remboursable des crédits d'impôt à l'investissement gagnés par le particulier dans l'année;

b) «revenu imposable modifié» d'un particulier—à l'exception d'une fiducie—pour une année d'imposition s'entend, de façon générale, du montant qui serait l'excédent de son revenu imposable pour l'année sur 40 000 \$

(i) si la moitié des gains en capital nets exonérés à cause de l'exonération à vie de 500 000 \$ au titre des gains en capital était ajoutée au revenu imposable,

(ii) si le plein montant des gains en capital nets—à l'exception des gains en capital nets exonérés à cause de l'exonération à vie de 500 000 \$ au titre des gains en capital—, des divers éléments également inclus à moitié dans le revenu et des dividendes en capital était inclus dans le revenu imposable,

(iii) si les déductions pour pertes résultant de certains placements dans des abris fiscaux et pour contributions aux régimes enregistrés de pensions et aux régimes enregistrés d'épargne-retraite n'étaient pas admises, et

(iv) si les seules déductions du revenu admises dans le calcul du revenu imposable concernaient les exemptions personnelles, l'invalidité et l'éducation (dans la mesure où ces déductions ne sont pas transférées d'une autre personne) ainsi que les dons à Sa Majesté et à des organismes de charité, les frais médicaux, certaines pertes d'autres années et l'étalement du revenu;

and the additional tax payable by the individual for the year resulting from the application of the provisions relating to the minimum tax be deductible in any of the 7 immediately following taxation years or, where the individual dies in the year, in any of the 3 preceding taxation years, in computing the amount that would, but for the minimum tax, be his tax otherwise payable for any such year.

Cost of Property Received from Partnership

(2) That the provisions of the Act that permit an increase in the cost of property received by a member of a partnership on its dissolution be amended to limit the increase to non-depreciable capital property of the partnership, where

(a) the property was acquired by the partnership after December 4, 1985, otherwise than pursuant to an agreement in writing entered into before that date, or

(b) the member acquired his interest in the partnership in an arm's length transaction after December 4, 1985 or, where the member is a corporation, control of the corporation was acquired after December 4, 1985, otherwise than pursuant to an agreement in writing entered into on or before that date.

Foreign Property Defined

(3) That the definition "foreign property" in section 206 of the Act be amended to include any share of the capital stock of a Canadian corporation that may reasonably be considered to derive its value, directly or indirectly, primarily from portfolio investments in property that is foreign property, and any indebtedness of or issued by such corporation, where such share or indebtedness is acquired after December 4, 1985 other than pursuant to an agreement in writing entered into before the time at which this Notice was tabled.

que l'impôt supplémentaire payable par un particulier pour l'année à cause de l'application des dispositions sur l'impôt minimum puisse être déduit dans les sept années d'imposition suivantes ou, si le particulier est décédé dans l'année, dans les trois années d'imposition précédentes, dans le calcul du montant qui serait, sans l'impôt minimum, l'impôt payable par ailleurs par le particulier pour chacune de ces années.

Coût des biens reçus d'une société

(2) Que les dispositions de la loi qui permettent la majoration du coût des biens reçus par un membre d'une société à la dissolution de celle-ci soient modifiées pour que seul le coût des biens en immobilisation non amortissables de la société puisse être majoré,

a) lorsque la société a acquis les biens après le 4 décembre 1985, autrement qu'aux termes d'un accord écrit conclu avant cette date; ou

b) que le membre a acquis sa participation dans la société dans le cadre d'une opération sans lien de dépendance effectuée après le 4 décembre 1985, ou, si le membre est une corporation, le contrôle de la corporation a été acquis après le 4 décembre 1985 autrement qu'aux termes d'un accord écrit conclu au plus tard à cette date.

Définition de «bien étranger»

(3) Que la définition de «bien étranger» à l'article 206 de la loi soit modifiée de façon à comprendre d'une part, une action du capital-actions d'une corporation canadienne, dont il est raisonnable de considérer la valeur comme fondée, directement ou indirectement, principalement sur des placements de portefeuille dans des biens qui sont des biens étrangers et d'autre part, un titre de créance d'une telle corporation ou émis par une telle corporation, dans le cas où l'action ou le titre est acquis après le 4 décembre 1985, autrement qu'aux termes d'un accord écrit conclu avant le moment du dépôt du présent avis.



House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION AVIS DE MOTION

WAYS AND MEANS VOIES ET MOYENS

Wednesday, March 26, 1986

Le mercredi 26 mars 1986

Notice of Ways and Means Motion to amend
the Income Tax Act

Avis de motion des voies et moyens visant à
modifier la Loi de l'impôt sur le revenu

That it is expedient to amend the Income
Tax Act as follows:

Qu'il y a lieu de modifier comme suit la
Loi de l'impôt sur le revenu :

1. (1) Subsection 195(8) of the *Income
Tax Act* is repealed and the following sub-
stituted therefor:

1. (1) Le paragraphe 195(8) de la *Loi de
l'impôt sur le revenu* est abrogé et remplacé
5 par ce qui suit :

“(8) Sections 151, 152, 158 and 159,
subsection 161(11), sections 162 to 167
(except subsections 164(1.1) to (1.3)) and
Division J of Part I are applicable to this
Part with such modifications as the cir- 10
cumstances require and, for greater cer-
tainty, the Minister may assess, before the
end of a taxation year, an amount payable
under this Part for the year.”

«(8) Les articles 151, 152, 158 et 159, le
paragraphe 161(11), les articles 162 à 167
(à l'exception des paragraphes 164(1.1) à
(1.3)) et la section J de la partie I s'appli- 10
quent à la présente partie, avec les adapta-
tions nécessaires. Il demeure entendu que
le ministre peut établir, avant la fin d'une
année d'imposition, une cotisation pour un
montant payable en vertu de la présente
partie pour l'année.» 15

(2) Subsection (1) is applicable to 15
amounts assessed after March 26, 1986.

(2) Le paragraphe (1) s'applique aux cota-
sations établies après le 26 mars 1986.

2. (1) All that portion of subsection
225.1(1) of the said Act preceding paragraph
(a) thereof is repealed and the following
substituted therefor: 20

2. (1) Le passage du paragraphe 225.1(1)
de la même loi qui précède l'alinéa a) est
abrogé et remplacé par ce qui suit : 20

“225.1 (1) Where a taxpayer is liable
for the payment of an amount assessed
under this Act (in this subsection referred
to as the “unpaid amount”), other than an
amount payable under Part VIII or sub- 25
section 227(9), the Minister shall not, for
the purpose of collecting the unpaid
amount,”

«225.1 (1) Lorsqu'un contribuable est
redevable du montant d'une cotisation éta-
blie en vertu de la présente loi (appelé
«montant impayé» au présent paragraphe),
à l'exception d'un montant payable en 25
vertu de la partie VIII ou du paragraphe
227(9), le ministre, pour recouvrer le mon-
tant impayé, ne peut, avant le 90^e jour

S.R. 1952, ch.
148; 1970-
71-72, ch. 63;
1972, ch. 9;
1973-74, ch. 14,
29, 30, 44, 45,
49, 51;
1974-75-76, ch.
26, 50, 58, 71,
87, 88, 95;
1976-77, ch. 4,
10, 54;
1977-78, ch. 1,
4, 32, 41, 42;
1978-79, ch. 5;
1979, c. 5;
1980-81-82-83,
ch. 40, 47, 48,
68, 102, 104,
109, 140; 1984,
ch. 1, 19, 31,
45; 1985, ch.
45; 1986, ch. 6

Dispositions
applicables

Restrictions au
recouvrement

R.S., 1952, c.
148; 1970-71-
72, c. 63; 1972,
c. 9; 1973-74,
cc. 14, 29, 30,
44, 45, 49, 51;
1974-75-76, cc.
26, 50, 58, 71,
87, 88, 95;
1976-77, cc. 4,
10, 54;
1977-78, cc. 1,
4, 32, 41, 42;
1978-79, c. 5;
1979, c. 5;
1980-81-82-83,
cc. 40, 47, 48,
68, 102, 104,
109, 140; 1984,
cc. 1, 19, 31,
45; 1985, c. 45;
1986, c. 6

Provisions
applicable to
Part

Collection
restrictions

(2) Subsection 225.1(2) of the said Act is repealed and the following substituted therefor:

Idem “(2) Where a taxpayer has served a notice of objection under this Act to an assessment of an amount payable under this Act, other than an amount payable under Part VIII or subsection 227(9), the Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in paragraphs (1)(a) to (g) before the day that is 90 days after the day on which notice is mailed to the taxpayer that the Minister has confirmed or varied the assessment.”

(3) All that portion of subsection 225.1(3) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Idem “(3) Where a taxpayer has appealed from an assessment of an amount payable under this Act, other than an amount payable under Part VIII or subsection 227(9); to the Tax Court of Canada or to the Federal Court — Trial Division (otherwise than pursuant to subsection 172(1)), the Minister shall not, for the purpose of collecting the amount in controversy, take any of the actions described in paragraphs (1)(a) to (g),”

(4) Subsection 225.1(4) of the said Act is repealed and the following substituted therefor:

Idem “(4) Where a taxpayer has agreed under subsection 173(1) that a question should be determined by the Federal Court or where a taxpayer is served with a copy of an application made under subsection 174(1) to the Tax Court of Canada or to the Federal Court — Trial Division for the determination of a question, the Minister shall not take any of the actions described in paragraphs (1)(a) to (g) for the purpose of collecting that part of an amount assessed, other than an amount payable under Part VIII or subsection 227(9), the liability for payment of which

suit la date de mise à la poste de l’avis de cotisation,»

(2) Le paragraphe 225.1(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Lorsqu’un contribuable signifie en vertu de la présente loi un avis d’opposition à une cotisation pour un montant payable en vertu de la présente loi, à l’exception d’un montant payable en vertu de la partie VIII ou du paragraphe 227(9), le ministre, pour recouvrer la somme en litige, ne peut prendre aucune des mesures visées aux alinéas (1)a) à g) avant le 90^e jour suivant la date de mise à la poste d’un avis au contribuable où le ministre confirme ou modifie la cotisation.»

(3) Le passage du paragraphe 225.1(3) de la même loi qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :

«(3) Lorsqu’un contribuable en appelle d’une cotisation pour un montant payable en vertu de la présente loi, à l’exception d’un montant payable en vertu de la partie VIII ou du paragraphe 227(9), devant la Cour canadienne de l’impôt ou la Division de première instance de la Cour fédérale (autrement qu’en vertu du paragraphe 172(1)), le ministre, pour recouvrer la somme en litige, ne peut prendre aucune des mesures visées aux alinéas (1)a) à g),»

(4) Le paragraphe 225.1(4) de la même loi est abrogé et remplacé par ce qui suit :

«(4) Lorsqu’un contribuable accepte conformément au paragraphe 173(1) que la Cour fédérale statue sur une question ou qu’il est signifié au contribuable copie d’une demande présentée conformément au paragraphe 174(1) devant la Cour canadienne de l’impôt ou la Division de première instance de la Cour fédérale pour qu’elle statue sur une question, le ministre, pour recouvrer la partie du montant d’une cotisation, à l’exception d’un montant payable en vertu de la partie VIII ou du paragraphe 227(9), dont le contribuable pourrait être redevable selon ce que la cour

will be affected by the determination of the question, before the day on which the question is determined by the Court.”

(5) Subsections (1) to (4) are applicable to amounts assessed after March 26, 1986.

statuera, ne peut prendre aucune des mesures visées aux alinéas (1)a) à g) avant la date où la cour statue sur la question.»

(5) Les paragraphes (1) à (4) s'appliquent 5 aux cotisations établies après le 26 mars 5 1986.



House of Commons
CANADA

NOTICE OF MOTION

WAYS AND MEANS

Wednesday, May 21, 1986

Notice of Ways and Means Motion to Amend the Customs Tariff and to Amend An Act to Amend the Customs Tariff

1. That the *Customs Tariff* be amended by adding thereto, immediately after section 23 thereof, the following section:

“24.(1) The rate of customs duty shall, subject to any other provisions of this section, be free in respect of goods that are the product of the following countries:

*Anguilla
Antigua and Barbuda
Bahamas
Bermuda
Barbados
Belize
British Virgin Islands
Cayman Islands
Dominica
Grenada
Guyana
Jamaica
Montserrat
St. Christopher-Nevis
St. Lucia
St. Vincent and the Grenadines
Trinidad and Tobago
Turks and Caicos Islands*

(2) The benefits of duty-free entry pursuant to subsection (1) do not apply unless

(a) the goods are bona fide the product of a country referred to in subsection (1);

(b) a substantial portion of the value of the goods, determined in accordance with the regulations, was produced by the industry of one or more countries referred to in subsection (1) or of Canada; and

(c) the goods were shipped from the producing country on a through bill of lading and consigned to a consignee in a specified port in Canada.

(3) Proof of origin, determined in accordance with the regulations, shall be furnished with the bill of entry at the customs office for goods admitted to duty-free entry pursuant to this section.

(4) Any decision of the Minister as to the origin of goods referred to in this section is final.

(5) The following goods are not eligible for duty-free entry pursuant to subsection (1):

(a) the goods enumerated in any of the tariff items in Group X of Schedule A; and

(b) the goods enumerated in tariff items 27101-1, 27102-1, 61100-1 to 61115-1 inclusive, 61120-1, 62200-1, 62300-3, 62300-4, 62305-1 and 92904-5.

(6) The Governor in Council may, by order and on such terms and conditions as may be specified in the order, exempt the goods produced in a country referred to in subsection (1) from the condition of through shipment as set out in paragraph (2)(c) or of furnishing proof of origin as set out in subsection (3).

(7) The Governor in Council may, by order, from time to time withdraw the benefit of duty-free entry pursuant to subsection (1), in whole or in part, from any country to which that benefit has been extended.

(8) The rates of customs duty applicable to goods described in an order made under subsection (7) shall be, from and after the date of the order, the rates of customs duty that would, but for this section, have been applicable to those goods.

(9) Notwithstanding any other Act of Parliament or any regulation, whether in respect of any particular country or generally, this section does not apply directly or indirectly in the case of any country to which the benefits or duty-free entry have not been specifically extended pursuant to subsection (1).

(10) The Governor in Council may, for the purposes of this section, make regulations

(a) respecting that which constitutes goods that are bona fide the product of a country referred to in subsection (1);

(b) respecting the determination of the origin of goods;

(c) prescribing the portion of the value of goods produced by the industry of one or more countries that constitutes a substantial portion for the purposes of paragraph (2)(b); and

(d) generally to carry out the provisions of this section.

(11) The Governor in Council may, by order, add to or delete from the list of countries set out in subsection (1) in order to reflect a change of name of any of those countries and no addition to or deletion from the list shall affect the benefits of duty-free entry pursuant to this section of any country.

(12) For the purposes of this section "country" means one of the Commonwealth and Dependent Territories."

2. That subsection 24(3) of the said Act, proposed by paragraph 1 of this motion, be repealed and the following substituted therefor:

"(3) Proof or origin, determined in accordance with the regulations, shall be furnished, in respect of goods imported free of duty pursuant to this section, at the same time and in the same place as the goods are accounted for under subsection 19(2) or section 32 of the Customs Act, whenever they are accounted for thereunder."

3. That Schedule A to the said Act be amended by striking out tariff items 30620-1, 31500-1, 35235-1, 41014-1, 41417-2, 43150-1, 44059-1, 44062-1, 44100-1, 44125-1, 44300-12, 44305-1, 44544-1, 44544-2, 44643-1, 46400-1, 47600-1, 47605-1, 47615-1, 49105-1, 53415-1, 53417-1, 56255-1, 56930-1, 56935-1, 61815-2, 61815-5, 61815-6, 68200-1, 69105-1, 70200-1, 70311-1, 85800-1, and 93404-6 and the enumerations of goods and the rates of duty set opposite each of those items and by inserting in Schedule A to the said Act the items, enumerations of goods and rates of duty specified in the schedule to this motion.

4. That the French version of Schedule A to the said Act be amended by striking out in tariff item 44533-7 the reference to "pour usage domestique".

5. That any enactment founded on paragraph 1 of this motion shall come into force or be deemed to have come into force on June 15, 1986 and shall apply to all goods imported or taken out of warehouse for consumption on or after that day, and to goods previously imported for which no entry for consumption is made before that day.

6. That any enactment founded on paragraph 2 of this motion shall come into force on the day on which sections 19 and 32 of the *Customs Act*, being chapter 1 of the Statutes of Canada, 1986, come into force.

7. That any enactment founded on paragraphs 3 and 4 of this motion shall be deemed to have come into force on the 27th day of February 1986 and to have been applied to all goods mentioned therein imported or taken out of warehouse for consumption on or after that day, and to have applied to goods previously imported for which no entry for consumption was made before that day.

8. That any regulation made under any enactment founded on paragraph 1 of this motion shall, if the regulation so provides, have retroactive effect and be deemed to have come into force on June 15, 1986 or on any date thereafter as specified in the regulation.

9. That the effect of section 1 of *An Act to amend the Customs Tariff* being chapter 12 of the Statutes of Canada, 1985 be extended from June 30, 1986 to December 31, 1987.

10. That any enactment founded on paragraph 9 of this motion shall come into force or be deemed to have come into force on the 1st day of July 1986.

SCHEDULE

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion							
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff
31500-1	Carbons or carbon electrodes over three inches in circumference or outside measurement and not exceeding thirty-five inches in circumference or outside measurement; carbons for use in the manufacture of dry batteries and dry cells	Free	Free	Free	Free	Free	Free	Free	Free
32101-1	<i>Plate, sheet, float, rolled or cast glass, tempered, n.o.p.</i>	10 p.c.	11.1 p.c.	22.5 p.c.	7 p.c.	10 p.c.	11.1 p.c.	22.5 p.c.	7 p.c.
	on and after January 1, 1987	10 p.c.	10.2 p.c.	22.5 p.c.	6.5 p.c.				
35235-1	Centrifugally cast bronze shells or tubes, not further manufactured than turned and bored longitudinally, for use in the manufacture of rolls for paper-making machinery	Free	Free	30 p.c.	Free	Free	Free	30 p.c.	Free
	Machinery and apparatus for use in mining, quarrying, the development of mineral deposits, or the processing of ores, metals or minerals, namely:								
	Coal cutting machines;								
	Dust collectors;								
	Elevating platforms, including raise climbers, for use underground;								
	Loading machines, including draglines and power shovels;								
	Scales for use with conveyors;								
	Parts of all the foregoing:								

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion							
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff
41014-1	Coal cutting machines; Loading machines, including draglines and power shovels, other than wheel type integral excavating front-end loaders with a bucket capacity for general-purpose use of 16 cubic yards or less; Parts, other than wire rope <i>and buckets</i> , of all the foregoing	Free	Free	Free	Free	Free 5 p.c.	Free 9.9 p.c.	Free 25 p.c.	Free 5 p.c.
	Electronic data processing machines and apparatus; peripheral equipment for use there- with including data entry, data preparation and data handling machines and apparatus; accesso- ries and attachments for use therewith; parts of all the foregoing; none of the foregoing to include telephone and telegraph apparatus and parts thereof:								
41417-2	Drum storage memories; disc packs; disc drives; disc files; disc cartridge cleaners; card read- ers; card punches; card readers/punches; paper tape readers and punches; badge readers and punches; document transport mechanisms; tape to card punches; reproduc- ing punches; printers other than those incor- porating keyboards; card or paper tape verifiers; collators; card sorters; process control apparatus which converts analog signals from or to digital signals, the foregoing not to include sensors; card condi- tioning equipment	Free	Free	35 p.c.	Free	Free	Free	35 p.c.	Free

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion							
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff
41417-3	Parts of all the foregoing.....	Free	Free	35 p.c.	Free	Free	3.9 p.c. Free	25 p.c. 35 p.c.	Free Free
43150-1	Geophysical precision instruments and equipment other than magnetometers, gravimeters, electromagnetic devices, induced polarization devices, germanium detectors, gamma gauges, betameters, devices to measure resistivity, self-potential devices, scintillation counters, spectrometers for gamma ray detection, <i>geophone stringers imported in any configuration</i> ; parts, attachments, tripods, base plates and fitted cases for the foregoing.....	Free	Free	20 p.c.	Free	Free	Free	20 p.c.	Free
44034-4	Barbless fish hooks	Free	Free	30 p.c.	Free	Free	7.2 p.c.	30 p.c.	Free
44059-1	Auxiliary power units; Batteries; Bolts, cocks, cotter pins, eyelets, nuts, pins, rivets, screws, turnbuckles and clevis, washers; Brakes, with related operating gear; Carburetors; De-icing and anti-icing equipment; Direct or inertia starters with or without related operating gear; Distributors; Electric generators; Electric lamps; Exhaust gas analyzers; Fittings and couplings;								

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion					
	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff
Forgings and castings;						
Fuel pressure warning devices;						
Hinges;						
Hydraulic jacks;						
Hydraulic pumps;						
Ignition coils;						
Instruments;						
Landing and navigation lights;						
Magnetos;						
Oil coolers;						
Pressure fire extinguishers;						
Primer pumps;						
Propellers and helicopter rotors;						
Radio for navigation and air traffic communica- tion;						
Seats;						
Shapes or sections, rolled, drawn or extruded, and bars, rods, tubes, plate, sheet and strip, of any metal or alloy thereof;						
Spark plugs;						
Swaged wires and tie rods;						
Tires and tire inner tubes;						
Vacuum pumps with related operating gear;						
Voltage control boxes;						
Wheels;						
Parts, <i>other than seat covers of textile fabric</i> , of all the foregoing;						
All of the foregoing for use in aircraft, aircraft engines, airborne aircraft equipment, or parts of						

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion					
	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff
aircraft, aircraft engines, or airborne aircraft equipment.....	Free	Free	27.5 p.c.	Free	Free	27.5 p.c.
44062-1 Hinges entitled to entry under tariff items 35200-1, 35400-1 and 36215-1; Furniture entitled to entry under tariff items 35400-1, 44603-1, 61800-1 and 93907-1; Castings entitled to entry under tariff items 35400-1 and 39000-1; Forgings entitled to entry under tariff item 39200-1; Sealed-beam lamps entitled to entry under tariff items 44504-1, 44504-2, 44504-3, 44504-4 and 44504-5; Microphones entitled to entry under tariff item 44536-1; Magnesium castings entitled to entry under tariff item 71100-1; Mirrors, optically worked, entitled to entry under tariff item 32305-1; Glassware, optically worked, entitled to entry under tariff item 32648-1; Goods except parts, entitled to entry under tariff items 44028-1, 44300-1, 44300-2, 44514-1, 44538-3, 44538-4 and 44540-1; Goods entitled to entry under tariff items 31200-1, 36800-1, 41417-1, 41417-2, 41417-3, 41505-1, 41505-2, 41505-3, 42400-1, 42405-1, 42700-1, 42701-1, 43005-1, 43300-1, 44053-1, 44057-1, 44059-1, 44500-1, 44502-1, 44512-1,	Free	Free	27.5 p.c.	Free	Free	Free

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion					
	British Preferential Tariff	Most-Favoured-Nation Tariff	General Preferential Tariff	British Preferential Tariff	Most-Favoured-Nation Tariff	General Preferential Tariff
44516-1, 44524-1, 44524-7, 44524-8, 44524-9, 44524-10, 44524-11, 44526-1, 44532-1, 44532-2, 44533-1, 44533-8, 46200-1 and 47100-1; Non-electric parts of water closets.						
All the foregoing when for use in the manufacture, repair, maintenance, rebuilding, modification or conversion of the goods enumerated in tariff item 44060-1	Free	Free	27.5 p.c.	Free	Free	27.5 p.c. 30 p.c.
44100-1 Guns, n.o.p.; .22 calibre rimfire bolt action rifles and .22 calibre rimfire auto-loading (semi-automatic) rifles, not being target rifles; cannons or other firearms, n.o.p.; cartridge cases, cartridges, primers, percussion caps, wads or other ammunition, n.o.p.; bayonets, swords, fencing foils and masks; gun or pistol covers or cases, game bags, loading tools and cartridge belts of any material..... on and after January 1, 1987	10 p.c. 10 p.c.	12.4 p.c. 11.3 p.c.	30 p.c. 30 p.c.	Free Free	10 p.c. 12.4 p.c.	Free 30 p.c.
44125-1 Rifles and shotguns, n.o.p.; pistols; combination shotgun rifles; firearms with interchangeable shotgun and rifle barrels; parts of the foregoing on and after January 1, 1987	Free Free	5.8 p.c. 5.5 p.c.	30 p.c. 30 p.c.	Free Free	5.8 p.c. 12.4 p.c.	30 p.c. 30 p.c.
Apparatus for cooking, designed for household use; parts thereof:						

Free
Free

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion					
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff
44300-12	Parts of gas stoves or ranges on and after January 1, 1987	15 p.c. 13.4 p.c.	15 p.c. 13.4 p.c.	10 p.c. 8.5 p.c.	15 p.c.	15 p.c.	10 p.c.
44544-1	Transistors and other semiconductor devices; parts thereof; materials for use in the manufac- ture thereof	Free	Free	25 p.c. 25 p.c.	Free Free	5.4 p.c. Free	Free Free
44619-1	Stainless steel vacuum evaporator masks, having a 90 p.c. front etch and 10 p.c. back etch, for the production of photocells	Free	Free	35 p.c.	Free	11.1 p.c.	7 p.c.
44643-1	Articles of iron, steel or nickel, or of which iron, steel or nickel are the component materials of chief value, for use in the manufacture of electric storage batteries	7.2 p.c. 6.8 p.c.	7.2 p.c. 6.8 p.c.	20 p.c. 20 p.c.	7.2 p.c. 4.5 p.c. 4.5 p.c.	7.2 p.c. 20 p.c.	4.5 p.c.
47600-1	X-ray apparatus and X-ray film; microscopes, illuminating devices and stands for use there- with; prepared surgical sutures; the following surgical, dental, veterinary and diagnostic articles: instruments; sterilizers; cobalt-therapy units; anaesthesia, surgical suction and oxygen administering apparatus including motive power and wall outlets but not piping systems. Parts of all the foregoing; electric light lamps designed for use with all the foregoing; portable cases and containers for all the foregoing	Free	Free	Free	Free	Free	Free

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion					
	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff

47605-1

Fibre optic operating room lights; chairs and tables for surgical operating purposes; infant incubators; infant and patient medical-alert or identification devices including beads, tapes and ribbons of any material, cases therefor and equipment for their application; electrocardiographs, paper and sensitized film for use therein; unexposed instant film; apparatus for sterilizing purposes, including bedpan washer-sterilizers but not including washing nor laundry machines; parts of all the foregoing; electro-encephalographic paper. All for the use of any public hospital, under such regulations as the Minister may prescribe.....

Free Free Free Free Free Free

Machinery and apparatus for use in exploratory or discovery work in connection with oil or natural gas wells or for the development, maintenance, testing, depletion or production of such wells up to and including the wellhead assembly or surface oil pumping unit; well-drilling machinery and apparatus for use in the exploration, discovery, development or operation of potash or rock salt deposits; these provisions shall not include geophysical precision instruments and automotive vehicles or chassis on which the machinery and apparatus are mounted:

All other machinery and apparatus, and parts thereof; parts of goods enumerated in item 49103-1:

Free

Free

Free

Free

Free

Free

Free

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion					
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff
						General Tariff	General Prefer- ential Tariff
49105-1	Bolted steel tanks; Equipment for testing/inspecting physical properties; Filter presses; Flexible metal tubing, non-electric; Oil well pressure maintenance or pressure improvement equipment; Pressure measuring/controlling instruments; Roller chain: power transmission, conveyor and offset sidebar types; Scientific equipment for oceanographic exploration and discovery work; Seismic instruments <i>other than geophone stringers imported in any configuration</i> ; Surveying instruments; Parts of all the foregoing, other than wing unions for oil well pressure maintenance or pressure improvement equipment	Free	Free	Free	Free	Free	Free
49221-1	<i>Materials for use in the manufacture of machinery and apparatus for use in the distil- lation or recovery of products from natural gas</i> Press blankets or blanketing:	Free	Free	Free	Free	Various	Various
53415-1	For use with <i>offset</i> printing presses..... on and after January 1, 1987	10 p.c. 10 p.c.	12.9 p.c. 12.5 p.c.	25 p.c. 25 p.c.	8.5 p.c. 8 p.c.	10 p.c.	12.9 p.c. 25 p.c.
53416-1	<i>Other</i>	Free	Free	10 p.c.	Free	Free	10 p.c.

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion					
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff
56255-1	Fabrics for use in the manufacture of screens for printing	Free	Free	45 p.c.	Free	Free	45 p.c.
56930-1	Hat braids, whether woven, knitted or plaited, not exceeding 152 mm in width, for use in the manufacture of hat bodies or shapes, but not for use in the ornamentation or trimming of such bodies or shapes	Free	Free	45 p.c.	Free	Free	45 p.c.
61815-2	Solid, press-on, industrial rubber tires, n.o.p.; off-highway tires, the section width of the tire measuring at least 16 inches including normal sidewalls but not including protective side ribs, bars or decorations, and the diameter of the tire rim measuring at least 24 inches, <i>other than</i> 3600 × 51 and 4000 × 57 size tires	Free	Free	Free	Free	Free	Free
	on and after January 1, 1987	11.7 p.c.	11.7 p.c.	35 p.c.	11.7 p.c.	11.7 p.c.	35 p.c.
		10.2 p.c.	10.2 p.c.	35 p.c.			7.5 p.c.
61815-5	Off-highway tires of sizes 3600 × 51 and 4000 × 57	Free	Free	35 p.c.	11.7 p.c.	11.7 p.c.	35 p.c.
	Pneumatic tires, wholly or in part of rubber, other than tires entitled to entry under tariff items 44059-1, 61810-1, 61815-2 and 61815-5, and not including used or retread tires:						
61815-6	Industrial, passenger car, bicycle, motorcycle, bus, truck, racing car, farm implement, tractor or off-highway tires	11.6 p.c.	11.6 p.c.	35 p.c.	11.6 p.c.	11.6 p.c.	35 p.c.
	on and after January 1, 1987	10.7 p.c.	10.7 p.c.	35 p.c.	7.5 p.c.	7 p.c.	7.5 p.c.

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion					
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff
61815-7	N.o.p. on and after January 1, 1987	12.6 p.c. 11.7 p.c.	12.6 p.c. 11.7 p.c.	35 p.c. 35 p.c.	8 p.c. 7.5 p.c.	12.6 p.c.	35 p.c.
68200-1	Fish hooks, for deep-sea or lake fishing, not smaller in size than number 2.0; Fishing nets and nettings of all kinds; Lures, jiggers and artificial baits; Metal panel devices for use in keeping nets open; Metal swivels; Net and line floats of any material except wood; Threads, twines, marlines, fishing lines, rope and cordage, not exceeding one and one-half inches in circumference; Spat collectors and collector holders; All the foregoing for use in commercial fishing, or in the commercial harvesting of marine plants, under such regulations as the Minister may prescribe; Carapace measures of any material	Free	Free	Free	Free	Free	Free
69105-1	Communion sets; oil stocks; crosiers; benitiers; sprinklers; incensers; incense boats; baptismal shells or fonts; scapulars; chaplets; rosaries; religious statues, statuettes, medals and crosses; religious figures and plaques, mounted or not; Scroll sets; Chanuka candlesticks; Kiddush sets; Mezuzah boxes; Havdalah sets; Seder plates; religious ancestral shrines; parts of the foregoing	Free	Free	Free	Free	Free	Free
						9.9 p.c.	25 p.c.
						9.9 p.c.	6.5 p.c.

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion					
	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff
69801-1 <i>Articles specially designed for guide-dogs for the blind</i>	Free	Free	Free	Free Various	Free Various	Free Various
70200-1 Vehicles, aircraft, water borne craft or reusable cargo containers having a length of at least 20 feet and an internal capacity of at least 14 cubic meters, engaged in the international commercial transportation of passengers or goods, in accordance with such terms and conditions as the Governor in Council may prescribe by regulations for each mode of conveyance provided for in this tariff item	Free	Free	Free	Free	Free	Free

Goods entitled to entry under this tariff item shall be exempt from all imposts, notwithstanding the provisions of the Act or any other Act.

Goods (not including alcoholic beverages, cigars, cigarettes and manufactured tobacco except where specifically provided therefor) acquired abroad by a resident or temporary resident of Canada or by a former resident who is returning to Canada to resume residence for his personal or household use or as souvenirs or gifts, but not bought on commission or as an accommodation for any other person or for sale, and declared by him at the time of his return to Canada, under such regulations as the Minister may prescribe:

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion											
	British Prefer- ential Tariff		Most- Favoured- Nation Tariff		General Prefer- ential Tariff		British Prefer- ential Tariff		Most- Favoured- Nation Tariff		General Prefer- ential Tariff	

70311-1 Valued at not more than three hundred dollars (including alcoholic beverages not exceeding forty ounces, and tobacco not exceeding fifty cigars, two hundred cigarettes and two pounds of manufactured tobacco) *whether or not* included in the baggage accompanying the person returning from abroad after an absence from Canada of not less than seven days

Free

Free

Free

Free
Various

Free
Various

Free
Various

Free
Various

Goods (other than alcoholic beverages, cigars, cigarettes and manufactured tobacco) acquired *abroad* that are not included in the baggage accompanying the person *returning from abroad* may be entered under this item if they are declared by him at the time of his return to Canada.

The exemption granted under this item shall be extended only to a person who, upon his return to Canada, establishes in such form and manner as the Minister may specify by regulation that he has been abroad for a minimum period of seven days, which form and manner may differ according to the country visited or the mode of travel used.

The exemption granted under this item shall not be claimed more than once in a calendar year nor combined with an exemption under tariff item 70310-1 with respect to the same trip abroad.

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion							
	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff

Notwithstanding the provisions of this Act or any other Act, the value for duty as otherwise determined under the *Customs Act* in the case of any goods described under tariff items 70310-1, 70311-1, and 70312-1 which, but for the fact that the value thereof exceeds the maximum value specified in such items, would have been entitled to entry under one of those items, shall be reduced by an amount equal to the value specified in those items.

Goods entitled to entry under any item of this heading shall be exempt from all other imposts notwithstanding the provisions of this Act or any other Act.

The Minister by regulation may, notwithstanding any other provision in customs legislation relating to the entry of goods, excuse a person from any requirement for making a written declaration or entry with respect to goods entitled to entry under any item of this heading.

The Governor in Council may, by order, on the recommendation of the Minister of Finance, reduce the maximum value of goods that are entitled to entry under any item of this heading but every order made pursuant to this authority shall be published in the *Canada Gazette*, and shall cease to have any force or effect with respect to any period following the 180th day from the date of its making or, if Parliament is not then sitting, the 15th day next thereafter that Parlia-

Tariff Item	Rates in Effect Prior to Rates Proposed in this Motion					
	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff

ment is sitting, unless not later than that day the order is approved by resolution adopted by both Houses of Parliament.

85800-1 Zeolites, *excluding compounded aluminum silicates*, for use in the manufacture of cracking catalysts for the refining of petroleum.....

Free Free 25 p.c. Free Free 25 p.c. Free



Chambre des communes
CANADA

AVIS DE MOTION

VOIES ET MOYENS

Le mercredi 21 mai 1986

Avis de motion des voies et moyens visant à modifier le Tarif des douanes et la Loi modifiant le Tarif des douanes

1. Que le *Tarif des douanes* soit modifié par adjonction, après l'article 23, de ce qui suit:

«24.(1) Sous réserve des autres dispositions du présent article, sont admises en franchise les marchandises produites dans les pays suivants:

*Anguilla
Antigua et Barbude
Bahamas
Barbade
Belize
Bermudes
Dominique
Grenade
Guyane
Îles Caïmans
Îles Turques et Caïques
Îles Vierges britanniques
Jamaïque
Montserrat
Saint-Christophe-Nevis
Saint-Vincent et Grenadines
Sainte-Lucie
Trinité et Tobago*

(2) L'entrée en franchise prévue au paragraphe (1) est subordonnée aux conditions suivantes:

a) les marchandises sont authentiquement produites dans un pays visé au paragraphe (1);

b) une partie importante de la valeur des marchandises, déterminée conformément aux règlements, est le produit d'un ou de plusieurs pays visés au paragraphe (1) ou au Canada;

c) les marchandises ont été expédiées du pays qui les a produites sous le couvert d'un connaissance direct à un destinataire dans un port spécifié du Canada.

(3) La preuve d'origine, déterminée conformément aux règlements, des marchandises importées en franchise en vertu du présent article est fournie avec la déclaration en douane au bureau de douanes.

(4) Les décisions du Ministre relatives à l'origine des marchandises visées au présent article sont définitives.

(5) Les marchandises suivantes ne sont pas admissibles en franchise en application du paragraphe (1):

a) les marchandises énumérées aux numéros tarifaires du groupe X de la liste A;

b) les marchandises énumérées aux numéros tarifaires 27101-1, 27102-1, 61100-1 à 61115-1, 61120-1, 62200-1, 62300-3, 62300-4, 62305-1 et 92904-5.

(6) Le gouverneur en conseil peut, par décret et selon les modalités qui y sont prévues, exempter les marchandises produites dans un pays visé au paragraphe (1) de la condition d'expédition directe prévue à l'alinéa (2)c) ou de celle de la preuve d'origine prévue au paragraphe (3).

(7) Le gouverneur en conseil peut, par décret, retirer, en totalité ou en partie, l'avantage de l'entrée en franchise à un pays auquel cet avantage a été accordé en vertu du paragraphe (1).

(8) A compter de la date du décret pris en vertu du paragraphe (7), les taux de droits de douane dont sont passibles les marchandises visées par ce décret sont ceux dont elles seraient passibles en l'absence du présent article.

(9) Malgré toute autre loi du Parlement ou ses règlements, le présent article ne s'applique ni d'une façon générale ou spécifique, ni directement ou indirectement, à un pays auquel l'avantage de l'entrée en franchise n'a pas été spécifiquement accordé en application du paragraphe (1).

(10) Le gouverneur en conseil peut, pour l'application du présent article, par règlement:

a) prendre toute mesure relative à la détermination des éléments constitutifs des marchandises authentiquement produites dans un pays visé au paragraphe (1);

b) prendre toute mesure relative à la détermination de l'origine de marchandises;

c) déterminer la fraction de la valeur de marchandises produites dans un ou plusieurs pays, y compris le Canada, qui correspond à une partie importante de ces marchandises pour l'application de l'alinéa (2)b);

d) prendre toute autre mesure d'application du présent article.

(11) Le gouverneur en conseil peut, par décret, modifier la liste des pays visés au paragraphe (1) en fonction des changements de leur dénomination. Les modifications ainsi effectuées n'ont aucun effet sur le régime des franchises de droits.

(12) Pour l'application du présent article, «pays» s'entend d'un pays du Commonwealth ou d'un territoire sous dépendance d'un pays du Commonwealth.»

2. Que le paragraphe 24(3) de la même loi, proposé par l'alinéa 1 de la présente motion, soit modifié et remplacé par ce qui suit :

«(3) La preuve d'origine, déterminée conformément aux règlements, des marchandises importées en franchise en vertu du présent article est fournie à la même date et au même endroit que la déclaration en détail de celles-ci faite en vertu du paragraphe 19(2) ou de l'article 32 de la Loi sur les douanes chaque fois que ces marchandises font l'objet d'une déclaration en détail en vertu de ces dispositions.»

3. Que la liste A de la même loi soit modifiée par suppression des numéros tarifaires 30620-1, 31500-1, 35235-1, 41014-1, 41417-2, 43150-1, 44059-1, 44062-1, 44100-1, 44125-1, 44300-12, 44305-1, 44544-1, 44544-2, 44643-1, 46400-1, 47600-1, 47605-1, 47615-1, 49105-1, 53415-1, 53417-1, 56255-1, 56930-1, 56935-1, 61815-2, 61815-5, 61815-6, 68200-1, 69105-1, 70200-1, 70311-1, 85800-1, et 93404-6 et des énumérations de marchandises et des taux de droits indiqués en regard de ces numéros et par insertion, dans la liste A de cette loi, des numéros, des énumérations de marchandises et des taux de droits indiqués à l'annexe de la présente loi.

4. Que la version française de la liste A de la même loi soit modifiée par suppression, du numéro tarifaire 44533-7, des mots «pour usage domestique»,.

5. Que tout texte législatif fondé sur l'alinéa 1 de la présente motion entre en vigueur ou soit réputé être entré en vigueur le 15 juin 1986 et s'applique d'une part à toutes les marchandises importées ou sorties d'entrepôt en vue de la consommation à compter de cette date et, d'autre part, aux marchandises déjà importées et non déclarées en vue de la consommation avant cette date.

6. Que tout texte législatif fondé sur l'alinéa 2 de la présente motion entre en vigueur à la date d'entrée en vigueur des articles 19 et 32 de la *Loi concernant les douanes*, chapitre 1 des Statuts du Canada de 1986.

7. Que tout texte législatif fondé sur les alinéas 3 et 4 soit réputé être entré en vigueur le 27 février 1986 et s'être appliqué d'une part à toutes les marchandises dont il y est fait mention, importées ou sorties d'entrepôt en vue de la consommation à compter de cette date et, d'autre part, aux marchandises importées et non déclarées en vue de la consommation avant cette date.

8. Que tout règlement pris sous le régime de tout texte législatif fondé sur l'alinéa 1 de la présente motion soit réputé être entré en vigueur le 15 juin 1986, s'il contient une disposition en ce sens, ou à une date ultérieure fixée par le règlement.

9. Que l'application de l'article 1 de la *Loi modifiant le Tarif des douanes*, chapitre 12 des Statuts du Canada de 1985, soit prolongée du 30 juin 1986 jusqu'au 31 décembre 1987.

10. Que tout texte législatif fondé sur l'alinéa 9 de la présente motion soit réputé être entré en vigueur le 1^{er} juillet 1986.

ANNEXE

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion							
		Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général
31500-1	Charbons ou électrodes de charbon mesurant plus de trois pouces de circonférence ou de mesure extérieure, et n'excédant pas trente-cinq pouces de circonférence ou de mesure extérieure; charbons devant servir à la fabrication de piles sèches	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.
32101-1	<i>Verre à glaces, verre à vitres, verre flotté, verre laminé ou verre coulé, trempé, n.d.</i>	10 p.c.	11.1 p.c.	22.5 p.c.	7 p.c.	10 p.c.	11.1 p.c.	22.5 p.c.	7 p.c.
	à compter du 1 ^{er} janvier 1987	10 p.c.	10.2 p.c.	22.5 p.c.	6.5 p.c.				
35235-1	Cylindres ou tubes en bronze moulés par la force centrifuge, non autrement ouvrés que tournés et percés en long, devant servir à la fabrication de cylindres pour machines à fabriquer le papier ... Machines et appareils devant servir, dans les mines et les carrières, à la mise en valeur de gisements minéraux ou au traitement des minerais, des métaux ou des minéraux, à savoir: Haveuses à charbon; Collecteurs de poussière; Plates-formes élévatoires, y compris les appareils pour remontées, dits raise climbers pour usage souterrain; Chargeuses, y compris les bennes dragueuses et les pelles mécaniques;	En fr.	En fr.	30 p.c.	En fr.	En fr.	En fr.	30 p.c.	En fr.

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion				
		Tarif de préférence tannique	Tarif de la nation la plus favorisée	Tarif de préférence général	Tarif de préférence tannique	Tarif de préférence général
41014-1	<p>Balances devant servir avec les convoyeurs; Pièces de tout ce qui précède:</p> <p>Haveuses à charbon; Chargeuses, y compris les bennes dragueuses et les pelles mécaniques, autres que les tracto-chargeurs excavateurs, à benne frontale, sur roues, ayant une benne pour usage général d'une contenance de 16 verges cubes ou moins; Pièces, autres que le câble métallique <i>et les bennes</i>, de tout ce qui précède</p> <p>Machines électroniques de traitement de l'information et leurs appareils; le matériel périphérique qui leur est destiné, y compris les machines et les appareils d'introduction, de préparation et de manipulation des données; les accessoires qui leur sont destinés; leurs pièces; rien de ce qui précède ne doit inclure les appareils de téléphone et de télégraphe et leurs pièces:</p>	En fr.	En fr.	En fr.	En fr. 5 p.c.	En fr. 5 p.c.
41417-2	<p>Mémoires à tambour; chargeurs; unités de disques; fichiers sur disques; nettoyeurs de chargeurs; lecteurs de cartes; perforateurs de cartes; lecteurs/perforateurs de cartes; lecteurs et perforateurs de bandes; lecteurs et perforateurs de jetons; mécanismes d'entraînement de documents; perforateurs de conversion bande/cartes; reproductrices; imprimantes sauf celles comprenant des claviers;</p>					

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion							
		Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général
	vérificatrices de cartes ou de bandes perfo- rées; assembleuses; trieuses de cartes; appa- reils de processus industriel qui convertissent les signaux analogiques en signaux numéri- ques ou vice-versa, ce qui précède ne devant pas comprendre les capteurs; matériel de conditionnement des cartes	En fr.	En fr.	35 p.c.	En fr.	En fr.	En fr.	35 p.c.	En fr.
41417-3	Pièces de tout ce qui précède	En fr.	En fr.	35 p.c.	En fr.	En fr. En fr.	3.9 p.c. En fr.	25 p.c. 35 p.c.	En fr. En fr.
43150-1	Instruments et matériel de précision pour la géophysique, sauf les magnétomètres, gravimè- tres, dispositifs électromagnétiques, dispositifs à polarisation induite, détecteurs de germanium, jauges de gamma, jauges de bêta, dispositifs pour mesurer la résistivité, potentiomètres, compteurs à scintillation, spectromètres pour la détection des rayons gamma; trains de géophos importés sous n'importe quelle configura- tion; pièces, accessoires, trépieds, plaques de base et étuis pour tout ce qui précède	En fr.	En fr.	20 p.c.	En fr.	En fr.	En fr.	20 p.c.	En fr.
44034-4	Hameçons sans barbillons	En fr.	En fr.	30 p.c.	En fr.	En fr.	7.2 p.c.	30 p.c.	En fr.
44059-1	Groupes électrogènes auxiliaires; Accumulateurs; Boulons, robinets, goupilles, oeillets, écrous, axes, rivets, vis, vis de tension et chapes, rondelles; Freins avec leurs appareils de commande; Carburateurs;								

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion					
	Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée
Dégivres et antigivres; Démarreurs directs ou par inertie, avec ou sans leurs appareils de commande; Distributeurs; Générateurs électriques; Lampes électriques; Analyseurs de gaz d'échappement; Accessoires et raccords; Pièces de forge et de fonte; Avertisseurs de la pression du carburant; Charnières; Vérins hydrauliques; Pompes hydrauliques; Bobines d'allumage; Instruments; Phares d'atterrissage et feux de position; Magnétos; Refroidisseurs d'huile; Extincteurs à pression pour les incendies; Pompes d'amorçage; Hélices et sustentateurs rotatifs d'hélicoptères; Radios pour la navigation ou la circulation aérienne; Sièges; Profilés, laminés, étirés ou extrudés, ainsi que les barres, verges, tubes, tôles, feuilles et feuillets, d'un métal quelconque ou d'un alliage de ce dernier; Bougies d'allumage; Fil embouti et barres d'accouplement;						

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion					
	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée général
<p>Pneus et chambres à air; Pompes à vide avec leurs appareils de commande; Boîte de réglage de la tension; Roues; Pièces, <i>sauf les housses de fauteuils en textile</i>, de tout ce qui précède;</p> <p>Tous les articles susmentionnés lorsqu'ils sont destinés aux aéronefs, moteurs d'aéronefs, maté- riel d'aéronefs aéroporté, ou aux pièces d'aéronefs, de moteurs d'aéronefs ou de matériel d'aéronefs aéroporté</p>						
44062-1	En fr.	En fr.	27.5 p.c.	En fr.	En fr.	27.5 p.c.
<p>Gonds pouvant être importés en vertu des numé- ros tarifaires 35200-1, 35400-1 et 36215-1; Meubles pouvant être importés en vertu des numéros tarifaires 35400-1, 44603-1, 61800-1 et 93907-1; Moulages pouvant être importés en vertu des numéros tarifaires 35400-1 et 39000-1; Pièces forgées pouvant être importées en vertu du numéro tarifaire 39200-1; Phares scellés pouvant être importés en vertu des numéros tarifaires 44504-1, 44504-2, 44504-3, 44504-4 et 44504-5; Microphones pouvant être importés en vertu du numéro tarifaire 44536-1; Moulages en magnésium pouvant être importés en vertu du numéro tarifaire 71100-1; Miroirs, travaillés optiquement, pouvant être importés en vertu du numéro tarifaire 32305-1;</p>						
	En fr.	En fr.	27.5 p.c.	En fr.	En fr.	27.5 p.c.
						En fr.

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion					
	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique favorisée	Tarif de préfé- rence général
<p>Verrerie, travaillée optiquement, pouvant être importée en vertu du numéro tarifaire 32648-1;</p> <p>Marchandises, sauf les pièces, pouvant être importées en vertu des numéros tarifaires 44028-1, 44300-1, 44300-2, 44514-1, 44538-3, 44538-4 et 44540-1;</p> <p>Marchandises pouvant être importées en vertu des numéros tarifaires 31200-1, 36800-1, 41417-1, 41417-2, 41417-3, 41505-1, 41505-2, 41505-3, 42400-1, 42405-1, 42700-1, 42701-1, 43005-1, 43300-1, 44053-1, 44057-1, 44059-1, 44500-1, 44502-1, 44512-1, 44516-1, 44524-1, 44524-7, 44524-8, 44524-9, 44524-10, 44524-11, 44526-1, 44532-1, 44532-2, 44533-1, 44533-8, 46200-1 et 47100-1;</p> <p>Pièces non électriques de cabinets.</p> <p>Tout ce qui précède devant servir à la fabrication, la réparation, l'entretien, la remise en état, la modification ou la conversion des marchandises énumérées dans le numéro tarifaire 44060-1</p>	En fr.	En fr.	27.5 p.c.	En fr.	En fr.	En fr.
				11.3 p.c.	11.3 p.c.	7.5 p.c.
44100-1						

Fusils, n.d.; carabines de calibre .22 à percussion périphérique et culasse mobile et carabines de calibre .22 à percussion périphérique et chargement automatique (semi-automatiques), non pour tir à la cible; canons ou autres armes à feu, n.d.; douilles de cartouches, cartouches, amorces, capsules de fulminate, bourres et autres munitions, n.d.; baïonnettes, épées, fleurets et masques d'escrime; fourreaux à fusils

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion					
		Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée Tarif général
	et à pistolets, carabines, outils à charger et ceintures-cartouchières, de toute matière..... à compter du 1 ^{er} janvier 1987	10 p.c. 10 p.c.	12.4 p.c. 11.3 p.c.	30 p.c. 30 p.c.	En fr. En fr.	10 p.c.	12.4 p.c. 30 p.c.
44125-1	<i>Carabines et fusils de chasse, n.d.; pistolets; carabines et fusils de chasse combinés; armes à feu avec barils de carabine et de fusil de chasse interchangeable; pièces de tout ce qui précède ... à compter du 1^{er} janvier 1987</i>	En fr. En fr.	5.8 p.c. 5.5 p.c.	30 p.c. 30 p.c.	En fr. En fr.	En fr. 10 p.c.	5.8 p.c. 12.4 p.c. 30 p.c. 30 p.c.
	Appareils de cuisson, conçus pour usage domesti- que; leurs pièces :						
44300-12	Pièces de fourneaux ou cuisinières à gaz à compter du 1 ^{er} janvier 1987	15 p.c. 13.4 p.c.	15 p.c. 13.4 p.c.	30 p.c. 30 p.c.	10 p.c. 8.5 p.c.	15 p.c.	15 p.c. 30 p.c.
44544-1	Transistors et autres dispositifs à semi-conduc- teurs; pièces de ce qui précède; matériaux servant à la fabrication de ces produits.....	En fr.	En fr.	25 p.c.	En fr.	En fr. En fr.	5.4 p.c. En fr. 25 p.c. 25 p.c.
44619-1	<i>Masques d'évaporation sous vide en acier inoxy- dable à morsure avant de 90 p.c. et à morsure arrière de 10 p.c., pour la production de photo- cellules</i>	En fr.	En fr.	35 p.c.	En fr.	10 p.c.	11.1 p.c. 35 p.c.
44643-1	Articles en fer, en acier ou en nickel ou dont le fer, l'acier ou le nickel sont les matières consti- tuantes de première valeur, devant servir à la fabrication d'accumulateurs électriques à compter du 1 ^{er} janvier 1987	7.2 p.c. 6.8 p.c.	7.2 p.c. 6.8 p.c.	20 p.c. 20 p.c.	4.5 p.c. 4.5 p.c.	7.2 p.c.	7.2 p.c. 20 p.c. 4.5 p.c.

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion							
		Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général
47600-1	Appareils de radiographie et films pour radiogra- phie; microscopes, appareils d'éclairage et supports devant servir avec ces articles; <i>ligatu- res pour sutures chirurgicales</i> ; les articles suivants utilisés en chirurgie, en art dentaire, en médecine vétérinaire et pour fins de diagnostic; instruments; stérilisateurs; appareils de cobalto- thérapie; appareils d'anesthésie, appareils chirurgicaux de succion et appareils pour l'administration d'oxygène, y compris la force motrice et les prises murales, mais non les canalisations. Pièces de tout ce qui précède; les ampoules électriques destinées à servir avec les articles susdits; les étuis et les contenants portatifs pour tout ce qui précède.....	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.
47605-1	Scialytiques à fibre optique; chaises et tables d'opérations chirurgicales; couveuses de nou- veau-nés; articles d'identité médicale ou d'iden- tification des nouveau-nés et des malades, y compris les perles, les bandes et les rubans de toute matière ainsi que leurs étuis et les appa- reils servant à les poser; électrocardiographes, papier et pellicules sensibilisés employés dans ces appareils; films vierges à développement instantané; appareils à stériliser, y compris les appareils à laver et à stériliser les bassins de lit, mais à l'exclusion des machines à lessiver ou à blanchir; pièces de tout ce qui précède; papier électroencéphalographique. Le tout pour usage								

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion					
	Tarif de pré- rence bri- annique	Tarif de la nation la plus favorisée	Tarif général	Tarif de pré- rence général	Tarif de pré- rence bri- annique	Tarif de la nation la plus favorisée
	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.
dans un hôpital public, selon les règlements que peut prendre le Ministre.....						
Machines et appareils utilisés dans les travaux d'exploration ou de découverte se tranchant aux puits de pétrole ou de gaz naturel ou pour la mise en valeur, l'entretien, l'essai, l'épuisement ou la mise en exploitation de ces puits jusqu'à et y compris les têtes d'éruption ou les unités de pompage du pétrole en surface; machines et appareils de forage, employés à l'exploration, la découverte, la mise en valeur ou l'exploitation de gisements de potasse ou de sel gemme; ces dispositions ne visent pas les instruments de précision pour la géophysique et les voitures automobiles ou les châssis sur lesquels les machines et les appareils sont montés :						
Autres machines et appareils et leurs pièces; pièces des articles énumérés dans le numéro tarifaire 49103-1 :						
49105-1						
Réservoirs en acier boulonné; Matériel de vérification ou d'inspection des propriétés physiques; Filtre-presses; Tubes de métal flexibles, non électrique; Matériel pour maintenir ou améliorer la pression dans les puits de pétrole; Appareils mesureurs-régulateurs de pression; Chaines à galets: types transporteurs et						

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion						
	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif de préfé- rence général
convoyeurs à moteur et type barre latérale décalée; Matériel scientifique pour les travaux d'exploration et de découverte océanogra- phiques; Instruments de sismologie, <i>sauf les trains de géophones importés sous n'importe quelle configuration</i> ; Instruments d'arpentage; Pièces de tout ce qui précède, autres que les raccords à ailettes pour matériel pour maintenir ou améliorer la pression dans les puits de pétrole.....	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.
49221-1 <i>Matières employées à la fabrication des machines et appareils utilisés pour la distillation ou la récupération des produits du gaz naturel</i>	En fr.	En fr.	En fr.	En fr.	Divers	Divers	Divers
Blanchets de presse ou étoffes pour blanchets de presse :							
53415-1 Devant servir sur les presses à imprimer <i>offset</i> ... à compter du 1 ^{er} janvier 1987	10 p.c. 10 p.c.	12.9 p.c. 12.5 p.c.	25 p.c. 25 p.c.	8.5 p.c. 8 p.c.	10 p.c.	12.9 p.c.	8.5 p.c. 25 p.c.
53416-1 <i>Autres</i>	En fr.	En fr.	10 p.c.	En fr.	En fr.	En fr.	En fr.
56255-1 Tissus servant à la fabrication de trames pour travaux d'impression.....	En fr.	En fr.	45 p.c.	En fr.	En fr.	En fr.	En fr.
56930-1 Galons à chapeaux, tissés, tricotés ou tressés, ne dépassant pas 152 mm de largeur, destinés à	En fr.	En fr.		En fr.	En fr.	En fr.	En fr.

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion						
	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif de préfé- rence général
	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.
servir exclusivement à la fabrication de calottes ou formes de chapeaux, mais non pas à l'orne- mentation ni au garnissage de ces calottes ou formes							
61815-2 Bandages industriels pleins en caoutchouc posés par pression, n.d.; pneus pour utilisation hors des grand-routes, ayant une largeur transver- sale d'au moins 16 pouces y compris les flancs ordinaires mais non les nervures, barres ou décorations latérales de protection, et ayant un diamètre de jante d'au moins 24 pouces, <i>sauf</i> les pneus des dimensions 3600 x 51 et 4000 x 57	11.7 p.c. 10.2 p.c.	11.7 p.c. 10.2 p.c.	35 p.c. 35 p.c.	7.5 p.c. 6.5 p.c.	11.7 p.c. 11.7 p.c.	11.7 p.c. 11.7 p.c.	7.5 p.c. 7.5 p.c.
à compter du 1 ^{er} janvier 1987							
61815-5 Pneus pour utilisation hors des grand-routes des dimensions 3600 x 51 et 4000 x 57	En fr.	En fr.	35 p.c.	En fr.	11.7 p.c.	11.7 p.c.	7.5 p.c.
Pneus entièrement ou partiellement en caout- chouc, autres que ceux pouvant être importés en vertu des numéros tarifaires 44059-1, 61810-1, 61815-2 et 61815-5, et à l'exclusion des pneus usagés ou réchapés:							
61815-6 Pneus industriels, de voitures particulières, de bicyclettes, de motocyclettes, d'autobus et d'autocars, de camions, de voitures de course, de matériel agricole, de tracteurs, ou pour circulation hors des grand-routes	11.6 p.c. 10.7 p.c.	11.6 p.c. 10.7 p.c.	35 p.c. 35 p.c.	7.5 p.c. 7 p.c.	11.6 p.c. 11.6 p.c.	11.6 p.c. 11.6 p.c.	7.5 p.c. 7.5 p.c.
à compter du 1 ^{er} janvier 1987							

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion					
		Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- annique	Tarif de la nation la plus favorisée
61815-7	N.d. à compter du 1 ^{er} janvier 1987	12.6 p.c. 11.7 p.c.	12.6 p.c. 11.7 p.c.	35 p.c. 35 p.c.	8 p.c. 7.5 p.c.	12.6 p.c.	12.6 p.c.
68200-1	Hameçons pour la pêche hauturière ou des lacs, de grosseur non moindre que le numéro 2.0; Filets de pêche de toutes sortes; Leurres, turlutes et appâts artificiels; Dispositifs métalliques à panneaux pour assurer l'ouverture des chaluts; Émerillons en métal; Flotteurs de filets et de lignes de toute matière, à l'exception du bois; Fils, ficelles, lusins, merlins, lignes à pêche, cordes et cordages, n'excédant pas un pouce et demi de tour; Collecteurs de naissain et porte-collecteurs; Tout ce qui précède devant être employé dans la pêche commerciale, ou dans la récolte commer- ciale de plantes aquatiques, selon les règlements que le Ministre peut prescrire; Appareils à mesurer les carapaces, en n'importe quelle matière						
69105-1	Services de communion; vases à huile; crosses; bénitiers; goupillons; encensoirs; navettes; coquilles ou fonts baptismaux; scapulaires; chapelets; rosaires; statues, statuettes, médailles et croix religieuses; images et plaques religieu- ses, montées ou non; ensembles de parchemins religieux; chandeliers Chanuka; ensembles Kiddush; boîtes Mezuzah; ensembles Havdalah;	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion							
		Tarif de préférence tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préférence général	Tarif de préférence tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préférence général
	plateaux Seder; autels pour le culte des ancêtres; pièces de ce qui précède	En fr.	En fr.	En fr.	En fr.	En fr.	9,9 p.c.	En fr.	En fr. 6,5 p.c.
69801-1	Articles spécialement conçus pour les chiens-guides des aveugles	En fr.	En fr.	En fr.	En fr.	Divers	En fr.	En fr. Divers	En fr.
70200-1	Véhicules, aéronefs, vaisseaux ou conteneurs réutilisables d'au moins 20 pieds de long et ayant une contenance d'au moins 14 mètres cubes, servant au transport commercial international des passagers ou des marchandises, en conformité avec les conditions que le gouverneur en conseil peut prescrire par voie de règlement pour chaque moyen de transport prévu dans le présent numéro	En fr.	En fr.	En fr.	En fr.	En fr.	En fr.	En fr. Divers	En fr.

Les marchandises admises au régime du présent numéro seront exemptes de toute imposition, nonobstant les dispositions de la présente loi ou de toute autre loi.

Marchandises (à l'exclusion des boissons alcooliques, des cigares, des cigarettes et du tabac fabriqué, sauf lorsqu'ils sont expressément dénommés ailleurs) acquises à l'étranger par un résident ou un résident temporaire du Canada ou par un ancien résident revenant au Canada pour reprendre résidence, pour son usage personnel ou domestique, ou comme souvenirs

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion				
	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence général
70311-1	En fr.	En fr.	En fr.	En fr.	En fr.
				Divers	Divers

ou cadeaux, mais non achetées à la demande d'autres personnes ni pour rendre service, ni pour la vente, et déclarées par ladite personne lors de son retour au Canada, selon les règlements que peut établir le Ministre:

Évaluées au plus à trois cents dollars (y compris les boissons alcooliques ne dépassant pas quarante onces et une quantité de tabac ne dépassant pas cinquante cigares, deux cents cigarettes et deux livres de tabac fabriqué) et *contenues ou non* dans les bagages accompagnant la personne revenant de l'étranger après une absence du Canada d'au moins sept jours

Les marchandises (autres que les boissons alcooliques, les cigares, les cigarettes et le tabac fabriqué) acquises à l'étranger peuvent être importées en vertu du présent numéro même si elles ne sont pas contenues dans les bagages accompagnant la personne revenant au pays si elles sont déclarées par cette dernière lors de son retour au Canada.

L'exemption accordée en vertu du présent numéro ne s'appliquera que dans le cas d'une personne qui, lors de son retour au Canada, établit, en la forme et de la manière que peut prescrire le Ministre par voie de règlement,

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion					
	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif de préfé- rence général

qu'elle a été à l'étranger pendant une période minimale de sept jours, cette forme ainsi que cette manière pouvant différer selon le pays visité ou le moyen de transport utilisé.

L'exemption accordée en vertu du présent numéro ne peut être réclamée plus d'une fois au cours d'une année civile, ni être combinée avec une exemption accordée conformément au numéro tarifaire 70310-1 relativement au même voyage à l'étranger.

Nonobstant les dispositions de la présente loi ou de toute autre loi, la valeur en douane qui serait autrement déterminée en vertu de la *Loi sur les douanes* dans le cas de toutes marchandises décrites aux numéros tarifaires 70310-1, 70311-1 et 70312-1, lesquelles, n'eut été du fait que leur valeur dépasse les limites prévues à ces numéros, auraient été admissibles en vertu desdits numéros, sera réduite d'un montant égal à la valeur maximale spécifiée auxdits numéros.

Les marchandises admises en vertu d'un des numéros de la présente rubrique seront exemptes de toute autre imposition nonobstant les dispositions de la présente loi ou de toute autre loi.

Le Ministre peut, par voie de règlement, nonobstant toute autre disposition que renferme la législation douanière concernant l'importation de

Numéro tarifaire	Droits en vigueur avant les droits proposés dans la présente motion						
	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif de préfé- rence général
<p>marchandises, exempter une personne de toute exigence de présenter une attestation ou une déclaration écrite à l'égard de marchandises dont l'importation est permise en vertu d'un des numéros tarifaires de la présente rubrique.</p> <p>Le Gouverneur en conseil peut, par décret, sur la recommandation du ministre des Finances, réduire la valeur maximale des marchandises dont l'importation est permise en vertu d'un des numéros tarifaires de la présente rubrique mais chaque décret rendu en vertu de cette autorisation devra être publié dans la <i>Gazette du Canada</i> et cessera d'être en vigueur ou d'avoir effet relativement à toute période postérieure au 180^e jour qui suit la date de son établissement ou, si le Parlement ne siège pas à ce moment-là, au 15^e jour où il siège par la suite, à moins que, ce jour-là au plus tard, le décret n'ait été approuvé par une résolution adoptée par les deux Chambres du Parlement.</p>							
85800-1	En fr.	En fr.	25 p.c.	En fr.	En fr.	En fr.	En fr.
Zéolites, à l'exclusion des silicates d'aluminium composés, devant servir à la fabrication de catalyseurs de cracking pour le raffinage du pétrole						25 p.c.	En fr.



House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION AVIS DE MOTION

WAYS AND MEANS VOIES ET MOYENS

Tuesday, May 27, 1986

Le mardi 27 mai 1986

Notice of Ways and Means Motion to
Amend the Petroleum and Gas Revenue
Tax Act

Avis de motion des voies et moyens visant à
modifier la Loi de l'impôt sur les reve-
nus pétroliers

1980-81-82-83, c. 68 (Part IV, ss. 78-117), c. 104, c. 158; 1984, c. 46; 1986, c. 2	That it is expedient to amend the Petroleum and Gas Revenue Tax Act as follows:	Il y a lieu de modifier la Loi de l'impôt sur les revenus pétroliers comme suit :	1980-81-82-83, ch. 68 (Partie IV, art. 78-117), 104, 158; 1984, ch. 46; 1986, ch. 2
Deduction for synthetic production	1. (1) Section 82 of the <i>Petroleum and Gas Revenue Tax Act</i> is amended by adding thereto, immediately after subsection (2) thereof, the following subsection:	5 1. (1) L'article 82 de la <i>Loi de l'impôt sur les revenus pétroliers</i> est modifié par inser- tion, après le paragraphe (2), de ce qui suit :	5
1986, c. 2, s. 3(6)	“(2.1) A taxpayer may deduct in com- 10 puting his production revenue for a taxa- tion year an amount equal to that portion of his synthetic production revenue for the year that may reasonably be attributed to production in the period in the year that is 15 after April 1986 and before 1987.”	“(2.1) Tout contribuable peut déduire dans le calcul de son revenu de production pour une année d'imposition la partie de 10 son revenu de production par synthèse pour l'année qu'il est raisonnable d'attri- buer à la production de la période de l'année commençant après avril 1986 et se terminant avant 1987.” 15	Dédution relative à la production par synthèse 1986, ch. 2, par. 3(6)
Individual deduction	(2) Subsection 82(3.2) of the said Act is repealed and the following substituted therefor:	(2) Le paragraphe 82(3.2) de la même loi est abrogé et remplacé par ce qui suit :	Dédution par un particulier
Corporation deduction	“(3.2) An individual, other than a trust, 20 may deduct in computing <u>his</u> production revenue for a taxation year an amount not exceeding <u>\$40,000</u> .	“(3.2) <u>Tout</u> particulier, à l'exception d'une fiducie, peut <u>déduire</u> dans le calcul de son revenu de <u>production</u> pour une 20 année d'imposition un montant maximal de 40 000 \$.	Dédution par une corporation
Deduction limit	(3.3) A corporation may deduct in com- 25 puting its production revenue for a taxa- tion year an amount not exceeding that proportion of its deduction limit for the year that the number of days after 1985 and before 1989 in the year is of 365.	(3.3) Toute corporation peut déduire dans le calcul de son revenu de production pour une année d'imposition un montant 25 qui ne dépasse pas le produit de la déduc- tion maximale permise à la corporation pour l'année par le rapport entre le nombre de jours de l'année postérieurs à 1985 et antérieurs à 1989 et 365. 30	Dédution maximale
	(3.4) For the purposes of subsection 30 (3.3), the deduction limit of a corporation for a taxation year in which the corpora- tion	(3.4) Pour l'application du paragraphe (3.3), la déduction maximale permise à une corporation pour une année d'imposi- tion est :	

	<p>(a) is not associated in the year with one or more other corporations is \$40,000; or</p> <p>(b) is associated in the year with one or more other corporations is the amount allocated to the corporation under subsection (3.5) or (3.6).</p>	<p>a) 40 000 \$ si, au cours de cette année, la corporation n'est pas associée à une ou plusieurs autres corporations;</p> <p>b) le montant attribué à la corporation en vertu du paragraphe (3.5) ou (3.6) si, au cours de cette année, la corporation est associée à une ou plusieurs autres corporations.</p>	
Allocation of deduction limit	<p>(3.5) The corporations in a group that, in a taxation year, are associated with each other may file with the Minister an agreement whereby, for the purpose of paragraph (3.4)(b), they allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may be, is \$40,000.</p>	<p>(3.5) Les corporations d'un groupe qui, au cours d'une année d'imposition, sont associées les unes aux autres peuvent produire auprès du ministre un accord par lequel, pour l'application de l'alinéa (3.4)b), elles attribuent à l'une d'elles ou répartissent entre plusieurs d'entre elles pour l'année un montant maximal de 40 000 \$.</p>	Répartition de la déduction maximale
Idem	<p>(3.6) If any of the corporations in a group referred to in subsection (3.5) fails to file with the Minister an agreement as contemplated by that subsection within 30 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax for a taxation year under this Division, the Minister shall, for the purpose of paragraph (3.4)(b), allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may be, is \$40,000."</p>	<p>(3.6) À défaut de production d'un accord par toutes les corporations d'un groupe visées au paragraphe (3.5) dans les 30 jours suivant avis écrit envoyé par le ministre à l'une de ces corporations qu'un accord est nécessaire à l'établissement d'une cotisation concernant l'impôt payable en vertu de la présente section pour une année d'imposition, le ministre doit, pour l'application de l'alinéa (3.4)b), attribuer à l'une d'elles ou répartir entre plusieurs d'entre elles pour l'année le montant maximal de 40 000 \$."</p>	Défaut d'accord
1986, c. 2, s. 3(7)	<p>(3) Subsections 82(5.1) and (5.2) of the said Act are repealed and the following substituted therefor:</p>	<p>(3) Les paragraphes 82(5.1) et (5.2) de la même loi sont abrogés et remplacés par ce qui suit :</p>	1986, ch. 2, par. 3(7)
Taxpayer as beneficiary under trust	<p>"(5.1) Where a taxpayer is a beneficiary under a trust, an amount (other than any amount that was deemed to be production revenue of the taxpayer pursuant to subsection (5)) that may, having regard to all the circumstances including the terms and conditions of the trust arrangement, reasonably be considered to be the taxpayer's share of that portion of the production revenue of the trust for a taxation year that may reasonably be attributed to the period in the year commencing on the latest of the first day of the year, January 1, 1986 and the date on which the taxpayer first became a beneficiary under the trust shall, if so designated by the trust</p>	<p>"(5.1) Lorsqu'un contribuable est bénéficiaire d'une fiducie, le montant — à l'exclusion du montant réputé, conformément au paragraphe (5), être le revenu de production du contribuable — qui peut raisonnablement être considéré, compte tenu de toutes les circonstances, y compris les modalités du contrat de fiducie, comme la part du contribuable de la fraction du revenu de production de la fiducie pour une année d'imposition pouvant raisonnablement être attribuée à la période de l'année commençant au dernier en date du premier jour de l'année, du 1^{er} janvier 1986 ou du jour où le contribuable est devenu bénéficiaire de la fiducie pour la</p>	Contribuable bénéficiaire d'une fiducie

in respect of the taxpayer in the trust's return of production revenue for the year and not designated under this section by the trust in respect of any other beneficiary thereunder, be deemed to be production revenue of the taxpayer for the taxation year of the taxpayer in which the taxation year of the trust ended.

Non-applica-
tion

(5.2) Subsection (5.1) does not apply in respect of a taxpayer who is a non-resident person not carrying on a business described in subparagraph 66(15)(h)(i) of the *Income Tax Act* through one or more fixed places of business in Canada.”

(4) Subsections (1) to (3) are applicable to the 1986 and subsequent taxation years except that, where a corporation so elects in its return of income under the said Act for a taxation year ending after 1985, in the application of subsection 82(3.3) of the said Act, as enacted by subsection (2), in respect of the corporation for the year and any other corporation that is associated with the corporation in that year, that subsection shall be read as follows:

“(3.3) A corporation may deduct in computing its production revenue for a taxation year an amount not exceeding the proportion of \$10,000 that the number of days after 1985 and before 1989 in the year is of 365, except that no deduction shall be made by the corporation under this subsection in respect of the year where

(a) it claims a deduction under subsection 84.1(1) in computing its tax payable for the year; or

(b) it is associated in the year with another corporation that claims a deduction under subsection 84.1(1) in computing its tax payable for the year.”

1986, c. 2,
s. 6(1)

2. (1) Paragraph 84(2)(b) of the said Act is repealed and the following substituted therefor:

“(b) the tax that would, but for this subsection, be payable under subsection 45

première fois, est réputé, si la fiducie attribue dans sa déclaration de revenu de production pour l'année ce revenu au contribuable sans l'attribuer en vertu du présent article à un autre de ses bénéficiaires, être le revenu de production du contribuable pour l'année d'imposition de celui-ci au cours de laquelle l'année d'imposition de la fiducie s'est terminée.

(5.2) Le paragraphe (5.1) ne s'applique pas à un contribuable non-résident qui n'exploite pas une entreprise visée au sous-alinéa 66(15)h(i) de la *Loi de l'impôt sur le revenu* à un ou plusieurs établissements permanents situés au Canada.»

(4) Les paragraphes (1) à (3) s'appliquent aux années d'imposition 1986 et suivantes. Toutefois, pour une année d'imposition se terminant après 1985, à l'égard de la corporation qui en fait le choix dans sa déclaration de revenu en vertu de la présente loi pour cette année et à l'égard de toute autre corporation qui lui est associée au cours de cette année, le paragraphe 82(3.3) de la même loi, édicté par le paragraphe (2), est remplacé par ce qui suit :

«(3.3) Toute corporation peut déduire dans le calcul de son revenu de production pour une année d'imposition un montant qui ne dépasse pas le produit de 10 000 \$ par le rapport entre le nombre de jours de l'année postérieurs à 1985 et antérieurs à 1989 et 365; toutefois, une corporation ne peut faire de déduction en vertu du présent paragraphe pour l'année :

a) si elle demande une déduction en vertu du paragraphe 84.1(1) dans le calcul de son impôt payable pour l'année; ou

b) si, au cours de l'année, elle est associée à une autre corporation qui demande une déduction en vertu du paragraphe 84.1(1) dans le calcul de son impôt payable pour l'année.»

2. (1) L'alinéa 84(2)b) de la même loi est abrogé et remplacé par ce qui suit :

«b) l'impôt qui serait, sans le présent paragraphe, payable en vertu du para-

Paragraphe
(5.1) inapplica-
ble aux
non-résidents

1986, ch. 2,
par. 6(1)

(1) by the taxpayer for that taxation year of the taxpayer computed on the assumption that he had no income other than that share and was allowed no deduction under subsection 82(3.2) or (3.3) for the year," 5

1986, c. 2,
s. 6(1)

(2) All that portion of subsection 84(2.1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Trust revenue

"(2.1) Where a corporation has included an amount in computing its production revenue for a taxation year by virtue of subsection 82(5) or (5.1) and"

(3) Subsections (1) and (2) are applicable to the 1986 and subsequent taxation years. 15

3. (1) Subsection 84.1(1) of the said Act is amended by striking out the word "and" at the end of paragraph (a) thereof, by adding the word "and" at the end of paragraph (b) thereof and by adding thereto the following paragraph:

"(c) in respect of the taxation years of the corporation that end after 1985 and before 1988, the least of 25
(i) the amount of tax determined under subparagraph (a)(i) for the year on that portion of its eligible production revenue for the year that may reasonably be attributed to production in the period in the year commencing May 1, 1986, 30
(ii) three times that proportion of the corporation's allocated limit for the year that the number of days after 35 April 1986 in the year is of 365, and
(iii) the amount, if any, by which the tax determined under subparagraph (a)(i) for the year exceeds the amount determined under paragraph (a) for 40 the year."

1984, c. 46,
s. 6(1)

(2) Subsection 84.1(2) of the said Act is repealed and the following substituted therefor:

Definition of
"credit limit"

"(2) For the purposes of subsection (1), the "credit limit" of a corporation for a

graphe (1) par le contribuable pour cette année d'imposition du contribuable, calculé en présumant qu'il n'a eu aucun autre revenu que cette part et qu'aucune déduction ne lui a été accordée en vertu du paragraphe 82(3.2) ou (3.3) pour l'année," 5

(2) Le passage du paragraphe 84(2.1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit : 10

1986, ch. 2,
art. 6

"(2.1) Lorsqu'une corporation a inclus un montant par application du paragraphe 82(5) ou (5.1) dans le calcul de son revenu de production pour une année d'imposition et que" 15

Revenu d'une
fiducie

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1986 et suivantes.

3. (1) Le paragraphe 84.1(1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa a), par adjonction de ce mot à la fin de l'alinéa b) et par adjonction de ce qui suit : 20

«c) pour les années d'imposition de la corporation qui finissent après 1985 et avant 1988, du moins élevé des montants suivants : 25

(i) le montant d'impôt déterminé en vertu du sous-alinéa a)(i) pour l'année sur la partie de son revenu admissible de production pour l'année qu'il est raisonnable d'attribuer à la production de la période de l'année commençant le 1^{er} mai 1986, 30
(ii) trois fois le produit de la limite allouée à la corporation pour l'année par le rapport entre le nombre de jours de l'année postérieurs à avril 1986 et 365, 35
(iii) l'excédent éventuel de l'impôt déterminé en vertu du sous-alinéa a)(i) pour l'année sur le montant déterminé à l'alinéa a) pour l'année.» 40

(2) Le paragraphe 84.1(2) de la même loi est abrogé et remplacé par ce qui suit :

1984, ch. 46,
par. 6(1)

«(2) Pour l'application du paragraphe (1), la limite de crédit d'une corporation 45 Limite de crédit

taxation year is that proportion of the corporation's allocated limit for the year that the number of days before 1989 in the year is of 365."

pour une année d'imposition est égale au produit de la limite allouée à la corporation pour l'année par le rapport entre le nombre de jours de l'année antérieurs à 1989 et 365."

5

1984, c. 46,
s. 6(1)

(3) Subparagraphs 84.1(3)(a)(i) and (ii) of the said Act are repealed and the following substituted therefor:

(3) Les sous-alinéas 84.1(3)a(i) et (ii) de la même loi sont abrogés et remplacés par ce qui suit :

1984, ch. 46,
par. 6(1)

"(i) \$250,000 where the year ends before 1986,

«(i) 250 000 \$ pour l'année finissant avant 1986,

10

(ii) \$500,000 where the year ends in 1986 or 1987, and

(ii) 500 000 \$ pour l'année finissant en 1986 ou 1987,

(iii) \$2,000,000 where the year ends after 1987; and"

(iii) 2 000 000 \$ pour l'année finissant après 1987; et»

1984, c. 46,
s. 6(1)

(4) Paragraphs 84.1(4)(a) and (b) of the said Act are repealed and the following substituted therefor:

(4) Les alinéas 84.1(4)a) et b) de la même loi sont abrogés et remplacés par ce qui suit :

1984, ch. 46,
par. 6(1)

"(a) \$250,000 where the year ends before 1986;

«a) 250 000 \$ pour l'année finissant avant 1986;

(b) \$500,000 where the year ends in 1986 or 1987; and

b) 500 000 \$ pour l'année finissant en 1986 ou 1987;

20

(c) \$2,000,000 where the year ends after 1987."

c) 2 000 000 \$ pour l'année finissant après 1987.»

(5) Subsections (1) to (4) are applicable to the 1986 and subsequent taxation years.

(5) Les paragraphes (1) à (4) s'appliquent aux années d'imposition 1986 et suivantes.



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House of Commons
CANADA

NOTICE OF MOTION

WAYS AND MEANS

Monday, June 2, 1986

Notice of Ways and Means Motion to Amend the Customs Tariff

1. That Schedule A to the *Customs Tariff* be amended by striking out tariff items 5700-1, 8000-1, 14805-1, 27310-1, 42600-1 and 43720-1 and the enumerations of goods and the rates of duty set opposite each of those items and by inserting in Schedule A to the said Act the items, enumerations of goods and rates of duty specified in the schedule to this motion.
2. That any enactment founded on paragraph 1 of this motion shall be deemed to have come into force on June 6, 1986, and shall apply to all goods imported or taken out of warehouse for consumption on or after that day, and to goods previously imported for which no entry for consumption is made before that day.

SCHEDULE

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion							
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Tariff	General Prefer- ential Tariff
2805-2	<i>Tea in tea bags.....per pound</i>	Free	6 cts.	6 cts.	—	Free	Free	Free	—
5700-1	Oatmeal and rolled oats per one hundred pounds <i>but not less than</i>	Free	50 cts. 10 p.c.	80 cts. 10 p.c.	— —	Free	50 cts.	80 cts.	—
8000-1	Trees, n.o.p., and teasels.....	Free	30 p.c.	30 p.c.	—	Free	Free	Free	—
14805-1	Cider, but not including sparkling cider in bottles.	Free	20 p.c.	20 p.c.	—	Free	5 p.c.	5 p.c.	—
27310-1	Asphaltum oil for use only for paving purposes	Free	10 p.c.	10 p.c.	—	Free	Free	Free	—
42600-1	Ozone generators or ozone airifiers having a capacity of 11.34 kilograms or less per day; parts thereof	Free	10 p.c.	10 p.c.	Free	Free	5 p.c.	10 p.c.	Free
43720-1	Diesel motor rail cars or units and chassis for same for use on railways for the carriage of passenger, baggage, mail or express traffic, and parts thereof	Free	12.5 p.c.	35 p.c.	Free	Free	Free	35 p.c.	Free



Chambre des communes
CANADA

AVIS DE MOTION

VOIES ET MOYENS

Le lundi 2 juin 1986

Avis de motion des voies et moyens visant à modifier le Tarif des douanes

1. Que la liste A du *Tarif des douanes* soit modifiée par suppression des numéros tarifaires 5700-1, 8000-1, 14805-1, 27310-1, 42600-1 et 43720-1 et des énumérations de marchandises et des taux de droits indiqués en regard de ces numéros et par insertion, dans la liste A de la même loi, des numéros tarifaires, des énumérations de marchandises et des taux de droits indiqués à l'annexe de la présente motion.

2. Que tout texte législatif fondé sur l'alinéa 1 de la présente motion entre en vigueur ou soit réputé être entré en vigueur le 6 juin 1986 et s'applique d'une part à toutes les marchandises importées ou sorties d'entrepôt en vue de la consommation à compter de cette date et, d'autre part, aux marchandises déjà importées et non déclarées en vue de la consommation avant cette date.

ANNEXE

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion						
		Tarif de pré- férence tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de pré- férence général	Tarif de pré- férence tannique	Tarif de la nation la plus favorisée	Tarif de pré- férence général
2805-2	<i>Thé en sacs de thé.....la livre</i>	En fr.	6 c.	6 c.	—	En fr.	En fr.	En fr.
5700-1	Gruau d'avoine et avoine en floconsles cent livres <i>mais au moins</i>	En fr.	50 c. 10 p.c.	80 c. 10 p.c.	—	En fr.	50 c.	80 c.
8000-1	Arbres, n.d., et cardères	En fr.	30 p.c.	30 p.c.	—	En fr.	En fr.	En fr.
14805-1	Cidre, à l'exclusion du cidre mousseux en bouteil- les	En fr.	20 p.c.	20 p.c.	—	En fr.	5 p.c.	5 p.c.
27310-1	Huile d'asphalte pour pavage seulement	En fr.	10 p.c.	10 p.c.	—	En fr.	En fr.	En fr.
42600-1	Ozoniseurs ou purificateurs d'air à l'ozone ayant une capacité d'au plus 11.34 kilos par jour, et leurs pièces	En fr.	10 p.c.	10 p.c.	En fr.	En fr.	5 p.c.	10 p.c.
43720-1	Autorails ou unités automotrices diesel et leurs châssis, devant servir aux chemins de fer en vue du transport des voyageurs, des bagages, de la poste ou des messageries et leurs pièces	En fr.	12.5 p.c.	35 p.c.	En fr.	En fr.	En fr.	35 p.c.

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House of Commons
Chambre des communes
CANADA

NOTICES OF MOTIONS AVIS DE MOTIONS

WAYS AND MEANS VOIES ET MOYENS

Wednesday, June 11, 1986

Le mercredi 11 juin 1986

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NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE TAX ACT

That it is expedient to introduce a measure to amend the Excise Tax Act and to provide among other things:

1. That the fuel tax rebate in respect of gasoline and diesel fuel sold to or imported by a farmer for farming purposes on or after January 1, 1987 be increased to three and one half cents per litre or such other rate, not exceeding five cents per litre, as the Governor in Council may by order prescribe on the recommendation of the Minister of Finance.

2. That the fuel tax rebate program be broadened to authorize a deduction or payment of a fuel tax rebate at the rate of three cents per litre in respect of the excise taxes imposed on gasoline and diesel fuel under Part III of the Act, for gasoline or diesel fuel sold to or imported by a farmer for farming purposes on or after January 1, 1987.

3. That the conditions and limitations relating to the existing fuel tax rebate program and the provision relating to the diversion of gasoline or diesel fuel to a use not eligible for the rebate be made applicable to any enactment founded on paragraph 2 of this motion.

4. That the imposition of specific rates of sales or consumption tax in the case of regular gasoline, unleaded gasoline, premium leaded gasoline, premium unleaded gasoline and diesel fuel be clarified.

5. That any enactment founded on paragraphs 1 to 3 come into force on January 1, 1987.

6. That any enactment founded on paragraph 4 come into force on June 12, 1986.

AVIS DE MOTION DES VOIES ET MOYENS MODIFIANT LA LOI SUR LA TAXE D'ACCISE

Qu'il y a lieu de présenter un projet de loi afin de modifier la Loi sur la taxe d'accise et de prévoir entre autres:

1. Que la ristourne de taxe sur le carburant en ce qui concerne l'essence ou le combustible diesel vendu à un agriculteur ou importé par ce dernier à des fins agricoles à compter du 1^{er} janvier 1987 soit augmentée à trois cents et demi le litre ou à tout autre taux, n'excédant pas cinq cents le litre, que le gouverneur en conseil peut prescrire par décret sur recommandation du ministre des Finances.

2. Que le programme de ristourne de taxe sur le carburant soit élargi de façon à autoriser la déduction ou le paiement d'une ristourne de taxe sur le carburant au taux de trois cents par litre dans le cas des taxes d'accise imposées en vertu de la Partie III de la Loi pour l'essence ou le combustible diesel vendu à un agriculteur ou importé par ce dernier à des fins agricoles, à compter du 1^{er} janvier 1987.

3. Que les conditions et restrictions se rattachant au programme existant de ristourne de taxe sur le carburant ainsi que la disposition se rapportant au détournement d'essence ou de combustible diesel vers un usage non admissible à la ristourne soient rendues applicables à tout texte législatif fondé sur l'article 2 de la présente motion.

4. Que l'imposition des taux spécifiques de la taxe de vente ou de consommation dans le cas de l'essence ordinaire, de l'essence sans plomb, de l'essence super avec plomb, de l'essence super sans plomb et du combustible diesel soit rendue plus précise.

5. Que tout texte législatif fondé sur les articles 1 à 3 entre en vigueur le 1^{er} janvier 1987.

6. Que tout texte législatif fondé sur l'article 4 entre en vigueur le 12 juin 1986.

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332-1/310
332-1/310A
332-1308
332-1/311



House of Commons
Chambre des communes
CANADA

NOTICES OF MOTIONS AVIS DE MOTIONS

WAYS AND MEANS VOIES ET MOYENS

Thursday, October 2, 1986

Le jeudi 2 octobre 1986

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NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE TAX ACT

That it is expedient to introduce a measure to amend the Excise Tax Act and to provide among other things:

1. That the excise taxes on wines be imposed at the following rates:

- (a) 1.79 cents per litre on wines of all kinds containing not more than 1.2 per cent of absolute ethyl alcohol by volume;
- (b) 21.47 cents per litre on wines of all kinds containing more than 1.2 per cent of absolute ethyl alcohol by volume but not more than 7 per cent of absolute ethyl alcohol by volume; and
- (c) 44.72 cents per litre on wines of all kinds containing more than 7 per cent of absolute ethyl alcohol by volume.

2. That the excise taxes on cigarettes and manufactured tobacco be imposed at the following rates:

- (a) For each five cigarettes or fraction of five cigarettes contained in any package.....\$0.10277;
- (b) Manufactured tobacco, including snuff, but not including cigars and cigarettes.....\$6.254 per kilogram.

3. That the tax imposed on an amount paid or payable for transportation of a person by air that begins in the taxation area and ends in the taxation area be increased to 10 per cent of the amount paid or payable or such lesser amount as may be prescribed by order of the Governor in Council.

4. That the rate of Telecommunication Programming Services Tax be increased to eight per cent.

5. That the ad valorem consumption or sales tax be imposed at the following rates:

- (a) eight per cent on the sale price of goods enumerated in Schedule V to the Act;
- (b) fifteen per cent on the sale price of wine and all goods on which a duty of excise is imposed under the Excise Act, or would be imposed under that Act were the goods produced or manufactured in Canada; and
- (c) twelve per cent on the sale price of all other goods to which subsection 27(1) of the Act applies.

AVIS DE MOTION DES VOIES ET MOYENS MODIFIANT LA LOI SUR LA TAXE D'ACCISE

Qu'il y a lieu de présenter un projet de loi afin de modifier la Loi sur la taxe d'accise et de prévoir entre autres:

1. Que les taxes d'accise sur les vins soient imposées aux taux suivants:

- a) 1,79 cent le litre sur les vins de toute espèce contenant au plus 1,2 pour cent d'alcool éthylique absolu par volume;
- b) 21,47 cents le litre sur les vins de toute espèce contenant plus de 1,2 pour cent d'alcool éthylique absolu par volume mais au plus 7 pour cent d'alcool éthylique absolu par volume;
- c) 44,72 cents le litre sur les vins de toute espèce contenant plus de 7 pour cent d'alcool éthylique absolu par volume.

2. Que les taxes d'accise sur les cigarettes et le tabac manufacturé soient imposées aux taux suivants:

- a) pour chaque quantité de cinq cigarettes ou fraction de cette quantité de cinq cigarettes contenue dans un paquet quelconque0,10277 \$;
- b) tabac manufacturé, y compris le tabac à priser, mais à l'exclusion des cigares et cigarettes6,254 \$ le kilogramme.

3. Que le taux de la taxe imposée sur un montant payé ou payable en contrepartie du transport aérien d'une personne lorsque ce transport commence et se termine dans la zone de taxation soit porté à dix pour cent du montant payé ou payable ou à tout montant inférieur fixé par décret du gouverneur en conseil.

4. Que le taux de la taxe sur les services de programmation fournis par voie de télécommunication soit porté à huit pour cent.

5. Que la taxe ad valorem de consommation ou de vente soit imposée aux taux suivants:

- a) huit pour cent sur le prix de vente des marchandises énumérées à l'Annexe V de la Loi;
- b) quinze pour cent sur le prix de vente des vins et de toutes les marchandises sur lesquelles un droit d'accise est imposé en vertu de la Loi sur l'accise, ou serait imposé en vertu de cette Loi sur les marchandises étaient produites ou fabriquées au Canada;
- c) douze pour cent sur le prix de vente de toutes les marchandises auxquelles le paragraphe 27(1) de la Loi s'applique.

6. That the consumption or sales tax on the following petroleum products be imposed at the following rates:

- (a) gasoline, regular \$0.00329 per litre;
- (b) gasoline, unleaded \$0.00360 per litre;
- (c) gasoline, premium leaded and unleaded \$0.00370 per litre;
- (d) diesel fuel \$0.00302 per litre;

multiplied by the ad valorem rate of consumption or sales tax, expressed as a decimal number and multiplied by one hundred, which applies to goods other than wines and goods on which a duty of excise is imposed under the Excise Act and goods enumerated in Schedule V to the Act.

7. That the rates per litre specified in any enactment founded on paragraph 6 of this motion for the goods listed in subparagraphs (a), (b) and (c) of that paragraph be adjusted quarterly on the first day of January, April, July and October of each year, commencing on April 1, 1986, so that the rates applicable during the quarter commencing on any such adjustment day are equal to the rounded product of the rates that would have been applicable if no adjustment had been made pursuant to any enactment founded on this paragraph and the ratio, adjusted or altered in such manner as may be prescribed by regulation of the Governor in Council on the recommendation of the Minister of Finance and rounded, that the Industrial Product Price Index for Motor Gasoline for the twelve month period ending on the last day prior to the immediately preceding quarter bears to the Industrial Product Price Index for Motor Gasoline for the twelve month period ending on September 30, 1985.

8. That the rate per litre specified in any enactment founded on paragraph 6 of this motion for the goods listed in subparagraph (d) of that paragraph be adjusted quarterly on the first day of January, April, July and October of each year, commencing on April 1, 1986, so that the rate applicable during the quarter commencing on any such adjustment day is equal to the rounded product of the rate that would have been applicable if no adjustment had been made pursuant to any enactment founded on this paragraph and the ratio, adjusted or altered in such manner as may be prescribed by regulation of the Governor in Council on the recommendation of the Minister of Finance and rounded, that the Industrial Product Price Index for Diesel Fuel for the twelve month period ending on the last day prior to the immediately preceding quarter bears to the Industrial

6. Que la taxe de consommation ou de vente sur les produits pétroliers suivants soit imposée aux taux suivants:

- a) essence, ordinaire 0,00329 \$ le litre;
- b) essence, sans plomb 0,00360 \$ le litre;
- c) essence, super avec plomb et super sans plomb 0,00370 \$ le litre;
- d) combustible diesel 0,00302 \$ le litre;

multipliés par le taux ad valorem de la taxe de consommation ou de vente, exprimé en nombre décimal et multiplié par cent, qui s'applique aux marchandises autres que les vins et les marchandises sur lesquelles un droit d'accise est imposé en vertu de la Loi sur l'accise et les marchandises énumérées à l'Annexe V de la Loi.

7. Que les taux par litre spécifiés dans tout texte législatif fondé sur l'article 6 de la présente motion concernant les marchandises énumérées aux alinéas a), b) et c) de cet article soient rajustés trimestriellement le premier jour de janvier, avril, juillet et octobre de chaque année, à compter du 1^{er} avril 1986, de sorte que les taux applicables pendant le trimestre commençant à toute date de rajustement soient égaux au produit arrondi des taux qui auraient été applicables si aucun rajustement n'avait été effectué conformément à tout texte législatif fondé sur le présent article et du ratio rajusté ou modifié de la manière qui peut être prescrite par règlement du gouverneur en conseil sur recommandation du ministre des Finances et arrondi, que représente l'indice des prix des produits industriels pour l'essence à moteur pour la période de douze mois se terminant le dernier jour avant le trimestre précédent par rapport à l'indice des prix des produits industriels pour l'essence à moteur pour la période de douze mois se terminant le 30 septembre 1985.

8. Que le taux par litre spécifié dans tout texte législatif fondé sur l'article 6 de la présente motion concernant les marchandises énumérées à l'alinéa d) de cet article soit rajusté trimestriellement le premier jour de janvier, avril, juillet et octobre de chaque année, à compter du 1^{er} avril 1986, de sorte que le taux applicable pendant le trimestre commençant à toute date de rajustement soit égal au produit arrondi du taux qui aurait été applicable si aucun rajustement n'avait été effectué conformément à tout texte législatif fondé sur le présent article et du ratio rajusté ou modifié de la manière qui peut être prescrite par règlement du gouverneur en conseil sur recommandation du ministre des Finances et arrondi, que représente l'indice des prix des produits industriels pour le carburant diesel pour la période de douze mois se terminant le dernier jour avant le trimestre précédent

Product Price Index for Diesel Fuel for the twelve month period ending on September 30, 1985.

9. That when printed matter is produced or purchased in Canada by a board of trade, a chamber of commerce, a municipal or an automobile association, or other similar organization, and is available to the general public without charge for the promotion of tourism, and the consumption or sales tax thereon has been paid, the Minister of National Revenue be authorized, on application by that organization within two years from the time the printed matter was so produced or purchased, to pay to the applicant an amount equal to the tax so paid.

10. That the exemption from the consumption or sale tax for printed matter imported by any person for the promotion of tourism be broadened to include printed matter that was produced or purchased outside Canada by a board of trade, a chamber of commerce, a municipal or an automobile association, or other similar organization, and is to be made available to the general public without charge for the promotion of tourism.

11. That where gasoline or diesel fuel has been purchased by and for the personal or official use of a person described in Section 2 of Part II — Diplomatic — of Schedule III to the Act who represents a country designated in regulations made pursuant to any enactment founded on paragraph 12 of this motion and the consumption or sales and excise taxes have been paid thereon, the Minister of National Revenue be authorized, on application by the purchaser made to the Minister in such form and manner as the Minister may prescribe, within two years from the time the gasoline or diesel fuel was purchased, to pay an amount equal to the amount of the consumption or sales and excise taxes paid thereon.

12. That the Governor in Council on the recommendation of the Secretary of State for External Affairs be authorized to make regulations designating countries for the purposes of any refund that may be provided pursuant to any enactment founded on paragraph 11 of this motion where he is satisfied that such countries extend similar relief to Canadian diplomats.

13. That the application of any demand for payment issued by the Minister of National Revenue, for the purposes of collecting taxes and other sums payable by a tax debtor under the Act be limited

par rapport à l'indice des prix des produits industriels pour le carburant diesel pour la période de douze mois se terminant le 30 septembre 1985.

9. Que, lorsque des imprimés sont produits ou achetés au Canada par une chambre de commerce, une association municipale, une association d'automobilistes ou une organisation semblable pour être offerts sans frais au grand public en vue de promouvoir le tourisme et que la taxe de consommation ou de vente à leur égard a été payée, le ministre du Revenu national soit autorisé, sur demande faite par l'organisation dans un délai de deux ans à compter de la date où les imprimés ont été ainsi produits ou achetés, à verser au requérant un montant égal à la taxe ainsi payée.

10. Que l'exemption de la taxe de consommation ou de vente applicable aux imprimés importés par une personne quelconque en vue de promouvoir le tourisme s'étende aux imprimés qui sont produits ou achetés hors du Canada par une chambre de commerce, une association municipale, une association d'automobilistes ou une organisation semblable pour être offerts sans frais au grand public en vue de promouvoir le tourisme.

11. Que, lorsque de l'essence ou du combustible diesel est acheté par une personne visée à l'article 2 de la Partie II — Service diplomatique — de l'Annexe III de la Loi qui représente un pays désigné dans les règlements pris conformément à tout texte législatif fondé sur l'article 12 de la présente motion et destiné à l'usage personnel ou officiel de cette personne et que les taxes de consommation ou de vente et d'accise sur l'essence ou le combustible diesel ont été payées, le ministre du Revenu national soit autorisé, sur demande faite au ministre par l'acheteur, en la forme prescrite et de la manière prescrite par le ministre, dans un délai de deux ans de la date d'achat de l'essence ou du combustible diesel, à verser au requérant un montant égal aux taxes de consommation ou de vente et d'accise ainsi payées.

12. Que le gouverneur en conseil sur recommandation du secrétaire d'État aux Affaires extérieures soit autorisé à prendre des règlements pour désigner des pays aux fins d'un remboursement prévu conformément à tout texte législatif fondé sur l'article 11 de la présente motion s'il est convaincu que ces pays offrent des exemptions semblables aux diplomates canadiens.

13. Que l'application d'une demande formelle de paiement signifiée par le ministre du Revenu national en vue de percevoir des taxes et autres sommes payables par un débiteur en vertu de la Loi soit limitée,

(a) in the case of a demand to a person in respect of amounts that the Minister knows or suspects will be paid or become payable to the tax debtor, to amounts that will be paid or become payable within 90 days after service of the demand, and
(b) in the case of a demand to a person to whom the Minister knows or suspects book debts of the tax debtor have been or will be assigned, to amounts that are paid to the assignee within 90 days after service of the demand.

14. That the fuel tax rebate program be extended to apply to gasoline and diesel fuel purchased or imported on or before December 31, 1987.

15. That the fuel tax rebate in respect of gasoline and diesel fuel sold to or imported by a farmer for farming purposes on or after January 1, 1987 be increased to three and one half cents per litre or such other rate, not exceeding five cents per litre, as the Governor in Council may by order prescribe on the recommendation of the Minister of Finance.

16. That the fuel tax rebate program be broadened to authorize a deduction or payment of a fuel tax rebate at the rate of three cents per litre in respect of the excise taxes imposed on gasoline and diesel fuel under Part III of the Act, for gasoline or diesel fuel sold to or imported by a farmer for farming purposes on or after January 1, 1987.

17. That the conditions and limitations relating to the existing fuel tax rebate program and the provision relating to the diversion of gasoline or diesel fuel to a use not eligible for the rebate be made applicable to any enactment founded on paragraph 16 of this motion.

18. That the imposition of specific rates of sales or consumption tax in the case of regular gasoline, unleaded gasoline, premium leaded gasoline, premium unleaded gasoline and diesel fuel be clarified.

19. That any enactment founded on:

(a) paragraphs 1, 2, 9 and 10 come into force on February 27, 1986;

a) dans le cas d'une demande formelle signifiée à une personne concernant des montants qui, selon ce que le ministre sait ou soupçonne, seront payés ou deviendront payables au débiteur de la taxe, aux montants qui seront payés ou qui deviendront payables dans les 90 jours de la signification de la demande formelle;
b) dans le cas d'une demande formelle signifiée à une personne à qui, selon ce que le ministre sait ou soupçonne, les dettes actives du débiteur de la taxe ont été cédées ou le seront, aux montants qui sont payés au cessionnaire dans les 90 jours de la signification de la demande formelle.

14. Que le programme de ristourne de taxe sur le carburant s'étende à l'essence et au combustible diesel achetés ou importés au plus tard le 31 décembre 1987.

15. Que la ristourne de taxe sur le carburant en ce qui concerne l'essence ou le combustible diesel vendu à un agriculteur ou importé par ce dernier à des fins agricoles à compter du 1^{er} janvier 1987 soit augmentée à trois cents et demi le litre ou à tout autre taux, n'excédant pas cinq cents le litre, que le gouverneur en conseil peut prescrire par décret sur recommandation du ministre des Finances.

16. Que le programme de ristourne de taxe sur le carburant soit élargi de façon à autoriser la déduction ou le paiement d'une ristourne de taxe sur le carburant aux taux de trois cents par litre dans le cas des taxes d'accise imposées en vertu de la Partie III de la Loi pour l'essence ou le combustible diesel vendu à un agriculteur ou importé par ce dernier à des fins agricoles, à compter du 1^{er} janvier 1987.

17. Que les conditions et restrictions se rattachant au programme existant de ristourne de taxe sur le carburant ainsi que la disposition se rapportant au détournement d'essence ou de combustible diesel vers un usage non admissible à la ristourne soient rendues applicables à tout texte législatif fondé sur l'article 16 de la présente motion.

18. Que l'imposition des taux spécifiques de la taxe de vente ou de consommation dans le cas de l'essence ordinaire, de l'essence sans plomb, de l'essence super avec plomb, de l'essence super sans plomb et du combustible diesel soit rendue plus précise.

19. Que tout texte législatif fondé sur:

a) les articles 1, 2, 9 et 10, entrent en vigueur le 27 février 1986;

- (b) paragraphs 4, 5, 6, 7 and 8 come into force on April 1, 1986;
- (c) paragraphs 14 to 17 come into force on January 1, 1987; and
- (d) paragraph 18 comes into force on June 12, 1986.

20. That any enactment founded on paragraph 3 come into force on:

- (a) May 1, 1986 in respect of any amount paid or payable on or after that date, in the case of a tax imposed on an amount paid or payable in Canada, and
- (b) August 1, 1986 in respect of any amount paid or payable for transportation of a person by air which includes an emplanement in Canada on or after that date on a specific flight having as a destination an airport in the taxation area outside Canada and deplanement by the person from the flight at an airport outside Canada, in the case of a tax imposed on an amount paid or payable outside Canada.

- b) les articles 4, 5, 6, 7 et 8 entrent en vigueur le 1^{er} avril 1986;
- c) les articles 14 à 17 entrent en vigueur le 1^{er} janvier 1987; et
- d) l'article 18 entre en vigueur le 12 juin 1986.

20. Que tout texte législatif fondé sur l'article 3 entre en vigueur:

- a) le 1^{er} mai 1986 en ce qui concerne un montant payé ou payable à compter de cette date, dans le cas d'une taxe imposée sur un montant payé ou payable au Canada;
- b) le 1^{er} août 1986 en ce qui concerne un montant payé ou payable en contrepartie du transport aérien d'une personne qui comporte l'embarquement au Canada à compter de cette date à bord d'un aéronef pour un vol déterminé à destination d'un aéroport situé dans la zone de taxation en dehors du Canada, et le débarquement à un aéroport situé en dehors du Canada, dans le cas d'une taxe imposée sur un montant payé ou payable hors du Canada.

NOTICE OF WAYS AND MEANS MOTION TO AMEND THE EXCISE ACT

That it is expedient to introduce a measure to amend the Excise Act and to provide among other things:

1. That the excise duty on the spirits specified in subsection 1(1) of Part I of the schedule to the Act be imposed at the rate of \$10.733 on every litre of absolute ethyl alcohol distilled in Canada and so in proportion for any less quantity than one litre (1 L).

2. That the excise duties on beer be imposed at the following rates:

- (a) on all beer or malt liquor containing more than 2.5 per cent absolute ethyl alcohol by volume, \$19.323 per hectolitre;
- (b) on all beer or malt liquor containing more than 1.2 per cent absolute ethyl alcohol by volume but not more than 2.5 per cent absolute ethyl alcohol by volume, \$9.660 per hectolitre; and
- (c) on all beer or malt liquor containing not more than 1.2 per cent absolute ethyl alcohol by volume, \$1.789 per hectolitre.

3. That the excise duties on tobacco, cigars and cigarettes be imposed at the following rates:

- (a) on manufactured tobacco of all descriptions except cigarettes, per kilogram actual mass, \$2.339;
- (b) on cigarettes having a mass of not more than one thousand three hundred and sixty-one grams (1 361 g) per thousand, \$10.120 per thousand;
- (c) on cigarettes having a mass of more than one thousand three hundred and sixty-one grams (1 361 g) per thousand, \$11.946 per thousand;
- (d) on cigars, \$5.576 per thousand; and
- (e) on Canadian raw leaf tobacco when sold for consumption, per kilogram actual mass, \$0.60844.

4. That any enactment founded on paragraphs 1 to 3 come into force on February 27, 1986.

AVIS DE MOTION DES VOIES ET MOYENS MODIFIANT LA LOI SUR L'ACCISE

Qu'il y a lieu de présenter un projet de loi afin de modifier la Loi sur l'accise et de prévoir entre autres:

1. Que les droits d'accise sur l'eau-de-vie qui sont spécifiés au paragraphe 1(1) de la Partie I de la Loi soient imposés au taux de 10,733 \$ sur chaque litre d'alcool éthylique absolu distillé au Canada, et ainsi proportionnellement pour toute quantité moindre qu'un litre (1 L).

2. Que les droits d'accise sur la bière soient imposés aux taux suivants:

- a) sur la bière ou la liqueur de malt contenant plus de 2,5 pour cent d'alcool éthylique absolu par volume, 19,323 \$ l'hectolitre;
- b) sur la bière ou la liqueur de malt contenant plus de 1,2 pour cent d'alcool éthylique absolu par volume mais au plus 2,5 pour cent d'alcool éthylique absolu par volume, 9,660 \$ l'hectolitre;
- c) sur la bière ou la liqueur de malt contenant au plus 1,2 pour cent d'alcool éthylique absolu par volume, 1,789 \$ l'hectolitre.

3. Que les droits d'accise sur le tabac, les cigares et les cigarettes soient imposés aux taux suivants:

- a) sur le tabac fabriqué de toutes catégories, excepté les cigarettes, 2,339 \$ le kilogramme, masse réelle;
- b) sur les cigarettes ayant une masse d'au plus mille trois cent soixante et un grammes (1 361 g) le millier, 10,120 \$ le millier;
- c) sur les cigarettes ayant une masse de plus de mille trois cent soixante et un grammes (1 361 g) le millier, 11,946 \$ le millier;
- d) sur les cigares, 5,576 \$ le millier;
- e) sur le tabac canadien en feuilles lorsqu'il est vendu pour la consommation, 0,60844 \$ le kilogramme, masse réelle.

4. Que tout texte législatif fondé sur les articles 1 à 3 entre en vigueur le 27 février 1986.

Notice of Ways and Means Motion to amend
the Income Tax Act

Avis de motion des voies et moyens visant à
modifier la Loi de l'impôt sur le revenu

That it is expedient to amend the Income
Tax Act as follows:

Il y a lieu de modifier ainsi la Loi de
l'impôt sur le revenu :

R.S., 1952, c.
148; 1970-71-
72, c. 63; 1972,
c. 9; 1973-74,
cc. 14, 29, 30,
44, 45, 49, 51;
1974-75-76, cc.
26, 50, 58, 71,
87, 88, 95;
1976-77, cc. 4,
10, 54;
1977-78, cc.
1, 4, 32, 41, 42;
1978-79, c. 5;
1979, c. 5;
1980-81-82-83,
cc. 40, 47, 48,
68, 102, 104,
109, 140; 1984,
cc. 1, 19, 31,
45; 1985, c. 45;
1986, cc. 6, 24

S.R., 1952, ch.
148; 1970-
71-72, ch. 63;
1972, ch. 9;
1973-74, ch. 14,
29, 30, 44, 45,
49, 51;
1974-75-76, ch.
26, 50, 58, 71,
87, 88, 95;
1976-77, ch. 4,
10, 54;
1977-78, ch.
1, 4, 32, 41, 42;
1978-79, ch. 5;
1979, ch. 5;
1980-81-82-83,
ch. 40, 47, 48,
68, 102, 104,
109, 140; 1984,
ch. 1, 19, 31,
45; 1985, ch.
45; 1986, ch.
6, 24

1. (1) Paragraph 122.2(2)(a) of the
Income Tax Act is repealed and the follow-
ing substituted therefor:

1. (1) L'alinéa 122.2(2)a) de la *Loi de
l'impôt sur le revenu* est abrogé et remplacé
par ce qui suit :

"Eligible child"

"(a) "eligible child" of an individual for a
taxation year means a child in respect of
whom the individual is entitled to receive
or would, but for the death of the child in
the year while he was resident in Canada, 10
be entitled to receive in January of the
following year a family allowance under
the *Family Allowances Act*, 1973; and"

«a) «enfant admissible» d'un particulier
pour une année d'imposition s'entend d'un
enfant pour lequel le particulier a droit de
recevoir en janvier de l'année suivante une
allocation familiale en application de la 10
Loi de 1973 sur les allocations familiales
ou y aurait droit si l'enfant n'était pas
décédé au cours de l'année alors qu'il rési-
dait au Canada;»

«enfant
admissible»

(2) Subsection (1) is applicable to the
1986 and subsequent taxation years.

(2) Le paragraphe (1) s'applique aux 15
années d'imposition 1986 et suivantes.

2. (1) All that portion of subsection
150(1) of the said Act preceding paragraph
(a) thereof is repealed and the following
substituted therefor:

2. (1) Le passage du paragraphe 150(1)
de la même loi qui précède l'alinéa a) est
abrogé et remplacé par ce qui suit :

“150. (1) A return of income for each taxation year in the case of a corporation (other than a corporation that was a registered charity throughout the year) and in the case of an individual, for each taxation year for which tax is payable or would be payable if this Part were read without reference to sections 127.2 and 127.3, in which the individual has a taxable capital gain or has disposed of a capital property, 10 or for which a payment has been received by the individual under section 164.1, shall, without notice or demand therefor, be filed with the Minister in prescribed form and containing prescribed information.”

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

3. (1) All that portion of subsection 160.1(1) of the said Act preceding paragraph 20 (a) thereof is repealed and the following substituted therefor:

“160.1 (1) Where at any time the Minister determines that as a consequence of the operation of subsection 119(2), 120(2), 25 section 122.2, subsection 127.1(1), 127.2(2), 129(1), 131(2), 132(1), 133(6) or 144(9), section 164.1 or subsection 192(5) or 194(5) an amount has been refunded to a taxpayer for a taxation year 30 in excess of the amount to which he was entitled as a refund, the following rules apply:”

(2) Subsection 160.1(2) of the said Act is repealed and the following substituted 35 therefor:

“(2) Where an individual resided at the end of a taxation year with a person who was a supporting person (within the meaning assigned by subsection 122.2(2)) of an 40 eligible child of the individual for that year, the individual and that person are jointly and severally liable to pay any excess described in subsection (1) that was refunded to the individual in respect of the 45 year as a consequence of the operation of section 122.2 or 164.1 and interest on such

«150. (1) Il doit être produit auprès du ministre, sans avis ni mise en demeure, une déclaration de revenu selon le formulaire prescrit, contenant les renseignements prescrits, pour chaque année d'imposition 5 dans le cas d'une corporation — à l'exception d'une corporation qui a été, tout au long de l'année, un organisme de charité enregistré — et, dans le cas d'un particulier, pour chaque année d'imposition pour 10 laquelle un impôt est payable — ou le serait s'il n'était pas tenu compte des articles 127.2 et 127.3 de la présente partie — ou dans laquelle le particulier a un gain en capital imposable ou a disposé 15 d'un bien en immobilisation ou encore pour laquelle il a reçu un versement en application de l'article 164.1 :»

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes. 20

3. (1) Le passage du paragraphe 160.1(1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«160.1 (1) Lorsque, à une date quelconque, le ministre détermine que, par application du paragraphe 119(2) ou 120(2), de l'article 122.2, du paragraphe 127.1(1), 127.2(2), 129(1), 131(2), 132(1), 133(6) ou 144(9), de l'article 164.1 ou du paragraphe 192(5) ou 194(5), un contribuable 30 a été remboursé pour une année d'imposition d'un montant supérieur à celui dont il avait le droit de l'être, les règles suivantes s'appliquent :»

(2) Le paragraphe 160.1(2) de la même loi 35 est abrogé et remplacé par ce qui suit :

«(2) Le particulier et la personne assumant les frais d'entretien d'un enfant admissible du particulier — au sens du paragraphe 122.2(2) — pour une année 40 d'imposition qui résident ensemble à la fin de l'année sont débiteurs solidaires de l'excédent, visé au paragraphe (1), remboursé au particulier pour l'année par application de l'article 122.2 ou 164.1 ainsi que des 45 intérêts sur cet excédent; le présent paragraphe ne limite en rien la responsabilité

Where excess refunded

Remboursement en trop

Joint and several liability

Solidarité en cas de remboursement en trop du crédit d'impôt pour enfants

excess, but nothing in this subsection shall be deemed to limit the liability of any person under any other provision of this Act.”

(3) Subsections (1) and (2) are applicable to the 1986 and subsequent taxation years.

4. (1) The said Act is further amended by adding thereto, immediately after section 164 thereof, the following section:

“164.1 (1) Notwithstanding any other provision of this Act, the Minister may, after the beginning of a taxation year and without application therefor, pay to an individual for the year one or more amounts, the aggregate of which does not exceed \$300 or such greater amount as may be prescribed for the year, in respect of an eligible child (within the meaning assigned by paragraph 122.2(2)(a)) of the individual for the year where, for the preceding taxation year,

(a) an amount was deemed under subsection 122.2(1) to have been paid by the individual with respect to the child; and

(b) the aggregate determined under subparagraph 122.2(1)(b)(i) in respect of the individual did not exceed \$15,000.

(2) Each amount paid under subsection (1) to or applied under subsection (4) in respect of an individual for a taxation year shall be deemed to be on account of an amount deemed by subsection 122.2(1) to have been paid by him for the year.

(3) Where the aggregate of all amounts paid under subsection (1) to or applied under subsection (4) in respect of an individual for a taxation year exceeds the amount deemed by subsection 122.2(1) to have been paid by him for the year, the excess shall be deemed to have been refunded to him on account of his tax under this Part for the year on the day on or before which his return of income under this Part for the year is required to be filed under section 150 or would be required to

de quiconque découlant d’une autre disposition de la présente loi.»

(3) Les paragraphes (1) et (2) s’appliquent aux années d’imposition 1986 et suivantes.

4. (1) La même loi est modifiée par insertion, après l’article 164, de ce qui suit :

«164.1 (1) Nonobstant les autres dispositions de la présente loi, le ministre peut, après le début d’une année d’imposition et sans que demande lui en soit faite, verser pour l’année un ou plusieurs montants dont le total ne dépasse pas 300 \$ ou le montant supérieur qui peut être prévu par règlement pour l’année, à un particulier pour chaque enfant admissible de celui-ci — au sens de l’alinéa 122.2(2)a) — pour l’année si, pour l’année précédente, à la fois :

a) un montant est réputé, en vertu du paragraphe 122.2(1), versé par le particulier pour cet enfant;

b) le total calculé selon le sous-alinéa 122.2(1)b)(i) à l’égard du particulier ne dépasse pas 15 000 \$.

(2) Tout versement anticipé fait à un particulier en vertu du paragraphe (1) ou tout montant imputé en ce qui concerne ce particulier en vertu du paragraphe (4), pour une année d’imposition, est réputé fait ou imputé au titre du montant réputé, en vertu du paragraphe 122.2(1), versé par le particulier pour l’année.

(3) L’excédent éventuel du total des versements anticipés faits à un particulier en vertu du paragraphe (1) et des montants imputés en ce qui concerne ce particulier en vertu du paragraphe (4), pour une année d’imposition, sur le montant réputé, en vertu du paragraphe 122.2(1), versé par le particulier pour l’année est réputé être remboursé, au titre de son impôt en vertu de la présente partie pour l’année, le jour où, au plus tard, il est tenu de produire sa déclaration de revenu en vertu de

Versement anticipé du crédit d’impôt pour enfants

Nature du versement anticipé

Montant réputé remboursé au titre de l’impôt

Prepayment of child tax credit

Nature of payment

Idem

be so filed if tax under this Part were payable by him for the year.

(4) Where an individual is liable or about to become liable to make any payment under this Act, the Minister may, instead of paying to the individual an amount that might otherwise be paid in a taxation year under subsection (1), apply the amount to the liability and notify the individual of that action.”

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

la présente partie pour l'année conformément à l'article 150 ou en serait tenu s'il devait payer un impôt en vertu de la présente partie pour l'année.

(4) Lorsqu'un particulier est redevable d'une somme en vertu de la présente loi ou est sur le point de le devenir, le ministre peut, au lieu de faire un versement anticipé au particulier en vertu du paragraphe (1) pour une année d'imposition, imputer le montant correspondant sur cette somme et en informe alors le contribuable.»

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

Applying
amount on debt

5 Imputation

10

**NOTICE OF WAYS AND MEANS MOTION TO
AMEND THE CUSTOMS TARIFF**

1. That Schedule A to the *Customs Tariff* be amended by striking out tariff items 5700-1, 8000-1, 14805-1, 27310-1, 42600-1 and 43720-1 and the enumerations of goods and the rates of duty set opposite each of those items and by inserting in Schedule A to the said Act the items, enumerations of goods and rates of duty specified in the schedule to this motion.

2. That any enactment founded on paragraph 1 of this motion shall be deemed to have come into force on June 6, 1986, and shall apply to all goods imported or taken out of warehouse for consumption on or after that day, and to goods previously imported for which no entry for consumption is made before that day.

**AVIS DE MOTION DES VOIES ET MOYENS
VISANT À MODIFIER LE TARIF DES DOUANES**

1. Que la liste A du *Tarif des douanes* soit modifiée par suppression des numéros tarifaires 5700-1, 8000-1, 14805-1, 27310-1, 42600-1 et 43720-1 et des énumérations de marchandises et des taux de droits indiqués en regard de ces numéros et par insertion, dans la liste A de la même loi, des numéros tarifaires, des énumérations de marchandises et des taux de droits indiqués à l'annexe de la présente motion.

2. Que tout texte législatif fondé sur l'alinéa 1 de la présente motion entre en vigueur ou soit réputé être entré en vigueur le 6 juin 1986 et s'applique d'une part à toutes les marchandises importées ou sorties d'entrepôt en vue de la consommation à compter de cette date et, d'autre part, aux marchandises déjà importées et non déclarées en vue de la consommation avant cette date.

SCHEDULE

Tariff Item		Rates in Effect Prior to Rates Proposed in this Motion				
		British Prefer- ential Tariff	Most- Favoured- Nation Tariff	General Prefer- ential Tariff	British Prefer- ential Tariff	Most- Favoured- Nation Tariff
2805-2	<i>Tea in tea bags</i> <i>per pound</i>	Free	6 cts.	6 cts.	Free	Free
5700-1	Oatmeal and rolled oats per one hundred pounds <i>but not less than</i>	Free	50 cts. 10 p.c.	80 cts. 10 p.c.	Free	50 cts. 80 cts.
8000-1	Trees, n.o.p., and teasels	Free	30 p.c.	30 p.c.	Free	Free
14805-1	Cider, but not including sparkling cider in bottles	Free	20 p.c.	20 p.c.	Free	5 p.c.
27310-1	Asphaltum oil for use only for paving purposes	Free	10 p.c.	10 p.c.	Free	Free
42600-1	Ozone generators or ozone airifiers having a capacity of 11.34 kilograms or less per day; parts thereof ...	Free	10 p.c.	10 p.c.	Free	10 p.c.
43720-1	Diesel motor rail cars or units and chassis for same for use on railways for the carriage of passenger, baggage, mail or express traffic, and parts thereof	Free	12.5 p.c.	35 p.c.	Free	35 p.c.

ANNEXE

Numéro tarifaire		Droits en vigueur avant les droits proposés dans la présente motion						
		Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif général	Tarif de préfé- rence général	Tarif de préfé- rence bri- tannique	Tarif de la nation la plus favorisée	Tarif de préfé- rence général
2805-2	<i>Thé en sacs de thé la livre</i>	En fr.	6 c.	6 c.	-	En fr.	En fr.	En fr. -
5700-1	Gruau d'avoine et avoine en flocons les cent livres <i>mais au moins</i>	En fr.	50 c. 10 p.c.	80 c. 10 p.c.	- -	En fr.	50 c.	80 c. -
8000-1	Arbres, n.d., et cardères	En fr.	30 p.c.	30 p.c.	-	En fr.	En fr.	En fr. -
14805-1	Cidre, à l'exclusion du cidre mousseux en bouteilles ..	En fr.	20 p.c.	20 p.c.	-	En fr.	5 p.c.	5 p.c. -
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House of Commons
CANADA

NOTICE OF MOTION

WAYS AND MEANS

Thursday, October 9, 1986

Notice of Ways and Means Motion to Amend the Income Tax Act

That it is expedient to amend the *Income Tax Act* and to provide among other things:

Contributions to RRSPs

(1) That, for the 1988 and subsequent taxation years, an individual be allowed to deduct in the calculation of his income for a year the aggregate of contributions made by him to registered retirement savings plans in the year or within 60 days after the end of the year to the extent of the individual's contribution room for the year.

Contribution Room

(2) That, for the 1988 and subsequent taxation years, the contribution room of an individual for a year be calculated by

- (a) determining the unused contribution room of the individual at the end of the preceding year,
- (b) adding thereto the amount, if any, by which the lesser of 18% of the earned income of the individual for the preceding year and the relevant amount for the year exceeds the aggregate of all pension adjustments of the individual for the preceding year,
- (c) adding to the result obtained, the aggregate of all pension adjustment reversals of the individual for the year, and
- (d) subtracting from the result obtained, the aggregate of all past service pension adjustments of the individual for the year;

and for this purpose,

“past service pension adjustment” of an individual for a year means a prescribed amount calculated with respect to all additions or increases made in the year to the pension benefits of the individual under a registered pension plan to the extent that such additions or increases are made in respect of a year of service after 1986 and before the year;

“pension adjustment” of an individual for a year means a prescribed amount calculated with respect to the individual’s pension benefits accrued in respect of his service for the year under the defined benefit provision of a registered pension plan, the contributions made in the year by or for the benefit of the individual under the money purchase provision of a registered pension plan and the contributions made in the year with respect to the individual under a deferred profit sharing plan;

“pension adjustment reversal” of an individual for a year in respect of a registered pension plan or a deferred profit sharing plan means a prescribed amount reported in the year and based on the difference between the amount received on the termination of the individual’s membership in the plan and the pension adjustments reported under the plan in respect of the year and the preceding seven years;

“relevant amount” for a year means the amount set out below in respect of the applicable year:

1988	- \$ 9,500
1989	- \$11,500
1990	- \$13,500
1991 and following	- \$15,500;

“unused contribution room” of an individual at the end of a year is nil for 1987 and, thereafter, means the difference between the contribution room of the individual for the year and the aggregate of contributions to registered retirement savings plans made by the individual in respect of the year to the extent that the contributions are deductible and relate to his contribution room for the year;

and that any increase in a year of the unused contribution room of an individual at the end of a year be available for carry-forward for a seven-year period.

Earned Income

(3) That the definition of earned income for the purposes of the provisions of the Act relating to registered retirement savings plans be amended

(a) for the 1988 and subsequent taxation years, to include research grants and an amount equal to deductible premiums under the *Unemployment Insurance Act, 1971*, and

(b) for the 1990 and subsequent taxation years, to exclude superannuation or pension benefits, retiring allowances, death benefits and amounts received out of a registered retirement savings plan or a deferred profit sharing plan.

**Pension Plan
Contributions – Employee**

(4) That, for the 1988 and subsequent taxation years, an individual be allowed to deduct in the calculation of income for a year all contributions made in the year by the individual to a registered pension plan in respect of services rendered after 1986 where the contributions are required under the plan as registered.

**Pension Plan
Contributions – Employer**

(5) That, for the 1988 and subsequent taxation years, an employer be allowed to deduct in the calculation of income for a taxation year all contributions made by the employer in the year or within 120 days after the end of the year to a registered pension plan where the contributions are required under the plan as registered.

Rules Limiting Benefits

(6) That, for the 1988 and subsequent taxation years, rules be introduced to limit the benefits that may be provided to an individual and the amounts that may be contributed under a registered pension plan, a deferred profit sharing plan and any combination of such plans.

**Additional Voluntary
Contributions**

(7) That

(a) any additional voluntary contribution made by an individual after October 8, 1986 and before 1988 to a registered pension plan not be deductible in the calculation of that individual's income, and

(b) the portion of any additional voluntary contribution made by an individual before October 9, 1986 to a registered pension plan that has not been deducted before 1987 not be deductible for the 1987 and any subsequent taxation year and, to the extent that it is paid to the individual out of the plan before 1989, not be included in the individual's income,

and for this purpose, "additional voluntary contribution" means a contribution to a registered pension plan that is not required as a general condition of membership in the plan and is used to purchase benefits under a money purchase provision of the plan.

Anti-avoidance

(8) That where, after October 8, 1986,

(a) the terms of a pension plan are amended or administered in such a manner as to terminate or suspend the membership of an individual in the plan for 1987 or in such a manner as to terminate, suspend or delay contributions or the accrual of benefits for the individual in respect of the year, or

(b) the terms of a deferred profit sharing plan are amended or administered in such a manner as to terminate, suspend or delay contributions in respect of an individual under the plan for 1987,

and where one of the main reasons for such termination, suspension or delay is to increase the deductible contributions of the individual to registered retirement savings plans for 1987, notwithstanding any other provision of the Act, the deduction allowed in the calculation of the individual's income for 1987 in respect of the individual's contributions to registered retirement savings plans for 1987 be limited to the amount that would have been deductible had no such termination, suspension or delay occurred.

**Transfers of Retirement
Benefits**

(9) That, for the 1990 and subsequent taxation years, an amount payable on a periodic basis that is included in the calculation of the income of an individual for a year not be deductible under paragraph 60(j) of the Act on transfer to a registered plan where such amount is

- (a) received out of or under a registered pension plan,
- (b) included in computing the income of the individual who is a beneficiary under a deferred profit sharing plan,
- (c) a superannuation or pension benefit attributable to services rendered by the individual in a period during which the individual was not resident in Canada,
- (d) a pension, supplement or spouse's allowance under the *Old Age Security Act* or a similar payment under a law of a province, or
- (e) a benefit under the *Canada Pension Plan* or a similar provincial plan,

except that, for the 1990 to 1994 taxation years, an amount payable out of or under a registered pension plan on a periodic basis that is included in the income of the individual for a year be deductible to the extent that contributions are made by the individual for the year to a registered retirement savings plan under which the individual's spouse is the annuitant and do not exceed \$6,000 for the year.

**Transfers of RRSP
Benefits**

(10) That, for the 1990 and subsequent taxation years, subsection 146(16) of the Act be amended to prohibit the payment or transfer of retirement income under a registered retirement savings plan after maturity to another registered retirement savings plan, a registered pension plan or a registered retirement income fund.

Transfers of Pensionable Service

(11) That, for the 1988 and subsequent taxation years, rules be introduced to regulate the transfer of funds and the crediting of years of pensionable service between registered pension plans where the funds or the years of pensionable service, as the case may be, are in respect of service after 1986.

Deferred Profit Sharing Plans

(12) That, for the 1988 and subsequent taxation years, a plan not be accepted for registration as a deferred profit sharing plan unless the plan

- (a) prohibits payments to the plan by an employee,
- (b) restricts the aggregate of contributions made by an employer in respect of an employee in a calendar year to the amount required to be contributed under the plan as registered, not exceeding the lesser of
 - (i) 18% of the salary or wages paid in the year by the employer to the employee, and
 - (ii) \$5,750 for 1988, \$6,750 for 1989, \$7,750 for 1990 and subsequent years,
- (c) provides that amounts allocated at any time after 1987 by a trustee under the plan to an employee vest irrevocably not later than the later of that time and the date that is two years after the employee first became a beneficiary under the plan,
- (d) provides that amounts forfeited after 1987 be paid to the employer within 120 days of the forfeiture, and
- (e) limits the investment in a year by the plan in equity shares of the contributing employer or a corporation with whom the employer does not deal at arm's length to the aggregate of the income and net capital gains derived in the year from such investments and an amount in respect of each employee equal to the greater of
 - (i) the lesser of \$3,500 and the contributions in the year on his behalf, and
 - (ii) one half of such contributions,

and where a plan has been accepted for registration before January 1, 1988, and does not as of that date comply with the conditions described above, the registration of the plan be revoked as of that date.

**Deductibility of Deferred
Profit Sharing Plan
Contributions**

(13) That, for the 1988 and subsequent taxation years, subsection 147(8) of the Act be amended to allow a deduction of amounts paid by an employer in the year or within 120 days thereafter to a trustee under a deferred profit sharing plan to the extent that such amounts are paid in accordance with the terms of the plan as registered.

**Transfer of Retiring
Allowances**

(14) That, for the 1987 and subsequent taxation years, paragraph 60(j.1) of the Act be amended to limit to \$2,000 per year of service the deduction in respect of each year of service after 1986 for transfers of retiring allowances to a registered retirement savings plan or registered pension plan.

**Pension Contributions for
Services Before 1987**

(15) That the provisions of the Act relating to the deduction of employee past service contributions to a registered pension plan be modified to provide that, for the 1988 and subsequent taxation years, the amount deductible in calculating an individual's income for a year in respect of contributions made at any time to acquire benefits under a registered pension plan in respect of service before 1987 be restricted to contributions made to acquire benefits under the defined benefit provision of the plan.

**Retirement Compensation
Arrangements**

(16) That, where an employee and his employer have entered into a retirement compensation arrangement, the following rules apply:

- (a) any contributions made after October 8, 1986 to the arrangement and any income and net capital gains that may reasonably be considered to derive from such contributions be subject to a special tax of 50 per cent that is refundable on distributions out of the arrangement;
- (b) the special tax apply neither to contributions made before 1988 pursuant to an agreement in writing made before October 9, 1986 by the employer and employee that is not materially revised after October 8, 1986 and before 1988, nor to any income and net capital gains that may reasonably be considered to derive from such contributions;
- (c) amounts received by an employee in a taxation year under the arrangement or as proceeds from the disposition of an interest in the arrangement be included in computing retirement income;
- (d) special rules be introduced relating to the application of the special tax to retirement compensation arrangements that are insured plans; and

(e) taxable contributions made by an employer to an arrangement be deductible in the taxation year of the employer in which they are made,

and for this purpose, “retirement compensation arrangement” means a plan or arrangement to which contributions are made by an employer to a custodian and under which the custodian may be required to make payments to the employee on, after or in contemplation of the employee’s retirement or loss of office or employment but does not include a registered pension plan, a profit sharing plan, other statutory plans, a salary deferral arrangement, certain plans or arrangements established for the benefit of non-resident employees and professional athletes and other prescribed arrangements.



Chambre des communes
CANADA

AVIS DE MOTION

VOIES ET MOYENS

Le jeudi 9 octobre 1986

Avis de motion des voies et moyens visant à modifier la Loi de l'impôt sur le revenu

Il y a lieu de modifier ainsi la *Loi de l'impôt sur le revenu* :

Cotisations à un REER

(1) Pour les années d'imposition 1988 et suivantes, les particuliers pourront déduire dans le calcul de leur revenu pour une année le total des cotisations qu'ils versent à des régimes enregistrés d'épargne-retraite dans l'année ou dans les 60 jours suivant la fin de l'année, à concurrence de leurs droits de cotisation pour l'année.

Droits de cotisation

(2) Pour les années d'imposition 1988 et suivantes, les droits de cotisation d'un particulier pour une année correspondront à ses droits inutilisés de cotisation à la fin de l'année précédente:

- a) plus : l'excédent éventuel du moins élevé de 18 % de son revenu gagné pour l'année précédente et du montant approprié pour cette même année sur le total des facteurs d'équivalence qui lui sont applicables pour l'année précédente;
- b) plus : le total des facteurs de rétablissement qui lui sont applicables pour l'année;
- c) moins : le total des facteurs d'équivalence pour services passés qui lui sont applicables pour l'année.

Les définitions suivantes s'appliquent aux fins de ce calcul.

«droits inutilisés de cotisation» Pour un particulier à la fin d'une année :

- zéro, en ce qui concerne 1987;
- la différence entre ses droits de cotisation pour l'année et le total des cotisations qu'il verse pour l'année à des régimes enregistrés d'épargne-retraite, dans la mesure où celles-ci sont déductibles et se rapportent à ses droits de cotisation pour l'année, en ce qui concerne chacune des années suivantes.

«facteur d'équivalence» Montant déterminé par règlement qui est fonction à la fois des éléments de retraite qu'un particulier a accumulés au titre de services accomplis dans une année dans le cadre de la disposition à prestations déterminées d'un régime enregistré de pension, des cotisations versées par lui ou pour son compte dans l'année dans le cadre de la disposition à cotisations déterminées d'un régime enregistré de pension et des cotisations versées pour son compte dans l'année dans le cadre d'un régime de participation différée aux bénéfices.

«facteur d'équivalence pour services passés» Montant déterminé par règlement qui est fonction des additions ou augmentations dont les droits à pension d'un particulier font l'objet dans une année dans le cadre d'un régime enregistré de pension, dans la mesure où ces additions ou augmentations visent une année de service postérieure à 1986 mais antérieure à l'année en question.

«facteur de rétablissement» Montant déterminé par règlement, déclaré dans une année à l'égard d'un particulier et fondé sur la différence entre le montant reçu à la cessation de sa participation à un régime enregistré de pension ou un régime de participation différée aux bénéfices et les facteurs d'équivalence déclarés dans le cadre du régime pour l'année et les sept années précédentes.

«montant approprié» Montant en regard de l'année applicable, comme suit :

1988	- 9 500 \$
1989	- 11 500 \$
1990	- 13 500 \$
1991 et années suivantes	- 15 500 \$

Toute augmentation dans une année des droits inutilisés de cotisation d'un particulier à la fin d'une année sera reportable sur une période de sept ans.

Revenu gagné

(3) La définition de revenu gagné pour l'application des dispositions de la loi sur les régimes enregistrés d'épargne-retraite sera modifiée :

a) d'une part, pour les années d'imposition 1988 et suivantes, par inclusion des subventions de recherche et des primes aux termes de la *Loi de 1971 sur l'assurance-chômage*;

b) d'autre part, pour les années d'imposition 1990 et suivantes, par exclusion des prestations de retraite ou d'autres pensions, des allocations de retraite, des prestations consécutives au décès et des montants reçus d'un régime enregistré d'épargne-retraite ou un régime de participation différée aux bénéfices.

Cotisations salariales à un régime de pension

(4) Pour les années d'imposition 1988 et suivantes, les particuliers pourront déduire dans le calcul de leur revenu pour une année les cotisations obligatoires versées dans l'année à un régime enregistré de pension conformément aux conditions d'enregistrement du régime, au titre de services qu'ils accomplissent après 1986.

Cotisations patronales à un régime de pension

(5) Pour les années d'imposition 1988 et suivantes, les employeurs pourront déduire dans le calcul de leur revenu pour une année d'imposition les cotisations obligatoires versées dans l'année ou dans les 120 jours suivant la fin de l'année à un régime enregistré de pension conformément aux conditions d'enregistrement du régime.

Règles limitant les prestations

(6) Pour les années d'imposition 1988 et suivantes, des règles seront prévues pour limiter les prestations qu'un particulier peut recevoir et les cotisations qui peuvent être versées à des régimes enregistrés de pension, des régimes de participation différée aux bénéfices et des mécanismes regroupant de tels régimes.

Cotisations facultatives

(7) a) Les cotisations facultatives qu'un particulier verse après le 8 octobre 1986 et avant 1988 à un régime enregistré de pension ne seront pas déductibles dans le calcul de son revenu;

b) la fraction des cotisations facultatives qu'un particulier verse avant le 9 octobre 1986 à un régime enregistré de pension, qui n'a pas été déduite pour une année antérieure à 1987, ne sera pas déductible pour les années d'imposition 1987 et suivantes; cette fraction ne sera pas incluse dans le calcul de son revenu dans la mesure où elle est retirée du régime avant 1989;

à cette fin, une cotisation facultative est un montant qu'un participant à un régime enregistré de pension verse afin d'acheter des droits à pension dans le cadre d'une disposition à cotisations déterminées du régime, s'il n'est pas tenu de le faire comme condition générale de participation au régime.

(8) Dans le cas où, après le 8 octobre 1986,

- a) les conditions d'un régime de pension sont modifiées ou appliquées de sorte que la participation d'un particulier cesse ou est suspendue pour 1987 ou que le versement des cotisations ou l'accumulation des éléments de retraite pour le particulier cesse, est suspendu ou est retardé pour l'année;
- b) les conditions d'un régime de participation différée aux bénéfices sont modifiées ou appliquées de sorte que les cotisations versées pour le compte d'un particulier cessent, sont suspendues ou sont retardées pour 1987;

et où l'une des principales raisons de cette cessation, cette suspension ou ce retard consiste à permettre au particulier d'augmenter ses cotisations déductibles à des régimes enregistrés d'épargne-retraite pour 1987, nonobstant les autres dispositions de la loi, la déduction permise dans le calcul du revenu du particulier pour 1987 au titre de ses cotisations à des régimes enregistrés d'épargne-retraite pour 1987 se limitera au montant qu'il aurait pu déduire sans cette cessation, cette suspension ou ce retard.

**Transfert de prestations
de retraite**

(9) Pour les années d'imposition 1990 et suivantes, les montants payables périodiquement qui sont inclus dans le calcul du revenu d'un particulier pour une année ne seront pas déductibles selon l'alinéa 60j) de la loi lorsqu'ils sont transférés à un régime enregistré, dans les cas suivants :

- a) les montants proviennent d'un régime enregistré de pension;
- b) les montants sont inclus dans le calcul du revenu du particulier qui est bénéficiaire d'un régime de participation différée aux bénéfices;
- c) les montants représentent des prestations de retraite qui sont attribuables à des services accomplis par le particulier alors qu'il ne résidait pas au Canada;
- d) les montants représentent des pensions, des suppléments ou des allocations de conjoint selon la *Loi sur la sécurité de la vieillesse* ou des montants analogues selon une loi provinciale;
- e) les montants représentent des prestations servies aux termes du *Régime de pensions du Canada* ou d'un régime provincial analogue;

toutefois, pour les années d'imposition 1990 à 1994, les montants payables périodiquement d'un régime enregistré de pension qui sont inclus dans le calcul du revenu du particulier pour une année seront déductibles, dans la mesure où il verse des cotisations pour l'année, ne dépassant pas au total 6 000 \$, à un régime enregistré d'épargne-retraite dont le conjoint du particulier est rentier.

**Transfert de prestations
d'un régime enregistré
d'épargne-retraite**

(10) Pour les années d'imposition 1990 et suivantes, le paragraphe 146(16) de la loi sera modifié afin d'empêcher le paiement ou le transfert du revenu de retraite provenant d'un régime enregistré d'épargne-retraite échu à un autre régime enregistré d'épargne-retraite, à un régime enregistré de pension, ou à un fonds enregistré de revenu de retraite.

**Transfert de services
validables**

(11) Pour les années d'imposition 1988 et suivantes, des règles seront prévues pour réglementer le transfert de fonds et l'octroi de droits à pension pour services validables entre régimes enregistrés de pension, lorsque les fonds ou les services validables, selon le cas, visent des services accomplis après 1986.

**Régimes de participation
différée aux bénéfices**

(12) Pour les années d'imposition 1988 et suivantes, seuls les régimes de participation aux bénéfices qui répondent aux conditions suivantes seront enregistrés :

- a) les cotisations salariales au régime doivent être interdites;
- b) le total des cotisations patronales versées au régime pour le compte d'un salarié au cours d'une année civile doit être limité au montant de la cotisation obligatoire selon les conditions d'enregistrement du régime, qui, en aucun cas, ne peut dépasser :
 - (i) 18 % du salaire que l'employeur verse au salarié dans l'année;
 - (ii) 5 750 \$ pour 1988, 6 750 \$ pour 1989 et 7 750 \$ pour les années 1990 et suivantes;
- c) les montants attribués à une date donnée après 1987 par un fiduciaire du régime à un salarié doivent être acquis à celui-ci à la date donnée ou à la date qui tombe deux ans après que le salarié est devenu pour la première fois bénéficiaire du régime, si cette date est postérieure;
- d) les montants auxquels il est renoncé après 1987 doivent être payés à l'employeur dans les 120 jours de la date de renonciation;

e) le placement des fonds du régime en actions participantes de l'employeur cotisant ou d'une corporation qui a un lien de dépendance avec celui-ci doit être limité au total du revenu et gains en capital nets dérivés de ce placement et du montant, pour chaque salarié, qui correspond au plus élevé des montants suivants :

- (i) le moindre de 3 500 \$ et des cotisations versées pour son compte dans l'année;
- (ii) la moitié de ces cotisations.

Lorsqu'un régime est enregistré avant le 1^{er} janvier 1988 et n'est pas conforme aux conditions du présent article à cette date, l'enregistrement du régime sera retiré à cette date.

Déduction des cotisations à un régime de participation différée aux bénéfices

(13) Pour les années d'imposition 1988 et suivantes, le paragraphe 147(8) de la loi sera modifié pour permettre la déduction des montants versés, conformément aux conditions d'enregistrement du régime, par un employeur dans l'année ou dans les 120 jours suivant la fin de cette année à un fiduciaire d'un régime de participation différée aux bénéfices.

Transfert des allocations de retraite

(14) Pour les années d'imposition 1987 et suivantes, l'alinéa 60j.1) de la loi sera modifié de façon à limiter à 2 000 \$, par année de service postérieure à 1986, la déduction des allocations de retraite transférées à un régime enregistré d'épargne-retraite ou un régime enregistré de pension.

Cotisation pour services antérieurs à 1987

(15) Les dispositions de la loi sur la déduction des cotisations salariales pour services passés à un régime enregistré de pension seront modifiées de façon à prévoir que, pour les années d'imposition 1988 et suivantes, le montant déductible dans le calcul du revenu d'un particulier pour une année au titre de cotisations versées en vue d'acheter des droits à pension pour services antérieurs à 1987 dans le cadre d'un régime enregistré de pension soit restreint aux cotisations versées en vue d'acheter des droits à pension dans le cadre de la disposition à prestations déterminées du régime.

Conventions de retraite

(16) Lorsqu'un salarié conclut une convention de retraite avec son employeur, les règles suivantes s'appliqueront :

- a) les cotisations versées dans le cadre de la convention après le 8 octobre 1986, ainsi que le revenu et les gains en capital nets qu'il est raisonnable de considérer comme dérivés de ces cotisations, seront assujettis à un impôt spécial de 50 %, remboursable au versement de montants provenant de la convention;

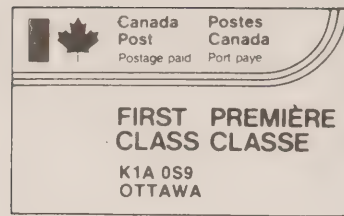
b) l'impôt spécial ne s'appliquera ni aux cotisations versées avant 1988 conformément à un accord écrit conclu avant le 9 octobre 1986 entre l'employeur et le salarié, qui n'a pas fait l'objet de modifications de fond après le 8 octobre 1986 et avant 1988, ni au revenu et gains en capital nets qu'il est raisonnable de considérer comme dérivés de ces cotisations;

c) les montants reçus par un salarié au cours d'une année d'imposition qui proviennent de la convention ou qui représentent le produit de la disposition d'un intérêt dans la convention seront inclus dans le calcul de son revenu de retraite;

d) des dispositions spéciales seront prévues pour l'application de l'impôt spécial aux conventions de retraite qui sont des régimes en assurance;

e) les cotisations imposables versées à la convention par l'employeur seront déductibles dans l'année d'imposition où elles sont versées;

à cette fin, une convention de retraite est un régime ou mécanisme dans le cadre duquel un employeur verse des cotisations à un dépositaire, lequel peut être tenu de faire des paiements au salarié au moment de la retraite de celui-ci ou de la perte de sa charge ou de son emploi, après ce moment ou en prévision de ce moment; sont exclus les régimes enregistrés de pension, régimes de participation aux bénéfices et autres régimes prévus par la loi, les ententes d'échelonnement du traitement, certains régimes ou mécanismes créés au profit de salariés non-résidents et d'athlètes professionnels et d'autres régimes réglementaires.



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House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION AVIS DE MOTION

WAYS AND MEANS VOIES ET MOYENS

Friday, October 24, 1986
Le vendredi 24 octobre 1986

Notice of Ways and Means Motion to amend the Petroleum and Gas Revenue Tax Act and the Income Tax Act and to repeal the Petroleum and Gas Revenue Tax Act

Avis de motion des voies et moyens visant à modifier et abroger la Loi de l'impôt sur les revenus pétroliers et à modifier la Loi de l'impôt sur le revenu

That it is expedient to amend the Petroleum and Gas Revenue Tax Act and the Income Tax Act and to repeal the Petroleum and Gas Revenue Tax Act as follows:

Il y a lieu de modifier et d'abroger la Loi de l'impôt sur les revenus pétroliers et de modifier la Loi de l'impôt sur le revenu comme suit :

5

PART I

PARTIE I

PETROLEUM AND GAS REVENUE TAX ACT

LOI DE L'IMPÔT SUR LES REVENUS PÉTROLIERS

1980-81-82-83, cc. 68 (Part IV, ss. 78-117), 104, 158; 1984, cc. 45, 46; 1986, cc. 2, 6

1980-81-82-83, ch. 68 (partie IV), 104, 158; 1984, ch. 45, 46; 1986, ch. 2, 6

1. The *Petroleum and Gas Revenue Tax Act* is amended by adding thereto, immediately after section 79 thereof, the following section:

1. La *Loi de l'impôt sur les revenus pétroliers* est modifiée par insertion, après l'article 79, de ce qui suit :

Application restricted

“79.1 This Part does not apply in respect of income or loss of a taxpayer from a source that is

- (a) the production after September 1986 of petroleum or gas;
- (b) the processing in Canada after September 1986 of petroleum to any stage that is not beyond the stage of crude oil or its equivalent; or
- (c) any amount received or receivable by the taxpayer as, on account of or in lieu of payment of, or in satisfaction of, a production royalty or resource royalty computed by reference to the amount or value of production after September 1986 of petroleum or gas.”

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«79.1 La présente partie ne s'applique pas au revenu tiré ou aux pertes subies par un contribuable qui proviennent :

Cessation d'application

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- a) de la production de pétrole ou de gaz postérieure à septembre 1986;
- b) du traitement au Canada de pétrole après septembre 1986 jusqu'à un stade qui ne dépasse pas celui de pétrole brut ou de son équivalent; ou
- c) d'un montant reçu ou à recevoir par le contribuable au titre ou en paiement intégral ou partiel d'une redevance de production ou d'une redevance pétrolière, calculée sur la quantité ou la valeur de la production de pétrole ou de gaz postérieure à septembre 1986.»

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1980-81-82-83,
c. 104, s. 18(1);
1986, c. 2, s.
3(1)

2. (1) Paragraphs 82(1)(a), (b) and (b.1) of the said Act are repealed and the following substituted therefor:

“(a) the production before October 1986 of petroleum or gas,

(b) the processing in Canada before October 1986 of petroleum to any stage that is not beyond the stage of crude oil or its equivalent, or

(b.1) an amount received or receivable by the taxpayer as a production royalty or resource royalty computed by reference to the amount or value of production after 1985 and before October 1986,”

1986, c. 2, s.
3(5)

(2) Subparagraph 82(1)(h.1)(ii) of the said Act is repealed and the following substituted therefor:

“(ii) not paid by the taxpayer on or before the later of the day that is 60 days after the end of the year and February 28, 1987,”

(3) Subsection 82(1) of the said Act is further amended by striking out the word “and” at the end of paragraph (i) thereof and by repealing paragraph (j) thereof and substituting the following therefor:

“(j) any deduction except to the extent that it may reasonably be considered to be applicable to such sources, and

(k) any resource royalty or production royalty computed by reference to the amount or value of production after September 1986.”

1984, c. 46, s.
2(4)

(4) Subparagraph 82(2)(c)(ii) of the said Act is repealed and the following substituted therefor:

“(ii) there shall be included in computing the income of a taxpayer for the year any amount so deducted in computing his income for the immediately preceding taxation year except to the extent that the amount may reasonably be attributed to petroleum or gas produced after September 1986 and delivered before the end of the year, and”

2. (1) Les alinéas 82(1)a) à b.1) de la même loi sont abrogés et remplacés par ce qui suit :

«a) de la production de pétrole ou de gaz antérieure à octobre 1986,

b) du traitement au Canada de pétrole avant octobre 1986 jusqu'à un stade qui ne dépasse pas celui de pétrole brut ou de son équivalent,

b.1) du montant reçu ou à recevoir par le contribuable à titre de redevance de production ou de redevance pétrolière, calculée sur la quantité ou la valeur de la production postérieure à 1985 et antérieure à octobre 1986,”

(2) Le sous-alinéa 82(1)h.1)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) n'est pas payée par le contribuable au plus tard au dernier en date du sixième jour suivant la fin de l'année ou du 28 février 1987,”

(3) L'alinéa 82(1)j) de la même loi est abrogé et remplacé par ce qui suit :

«j) à tout titre, sauf cas d'applicabilité aux sources en question,

k) au titre de toute redevance pétrolière ou redevance de production, calculée sur la quantité ou la valeur de la production postérieure à septembre 1986.”

(4) Le sous-alinéa 82(2)c)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) il est inclus dans le calcul du revenu d'un contribuable pour l'année tout montant ainsi déduit dans le calcul de son revenu pour l'année d'imposition précédente, sauf dans la mesure où il est raisonnable d'attribuer ce montant aux livraisons du pétrole ou gaz produit après septembre 1986 effectuées avant la fin de l'année,”

1980-81-82-83,
ch. 104, par.
18(1); 1986,
ch. 2, par. 3(1)

1986, ch. 2,
par. 3(5)

1984, ch. 46,
par. 2(4)

(5) Paragraph 82(2)(d) of the said Act is repealed and the following substituted therefor:

“(d) there shall be included any amount required to be included in computing the income of the taxpayer by virtue of paragraph 12(1)(o) of the *Income Tax Act* that may reasonably be regarded as being in relation to the production of petroleum or gas before October 1986,”

(6) Subparagraph 82(2)(f)(ii) of the said Act is repealed and the following substituted therefor:

“(ii) in computing his income for a taxation year ending after 1984, any amount that would be deductible in the year by virtue of paragraph 20(1)(mm) of the *Income Tax Act* if the reference in that paragraph to “injected before that time” were read as “injected in the year and before October 1986”.”

(7) Section 82 of the said Act is further amended by adding thereto, immediately after subsection (2) thereof, the following subsection:

“(2.1) A taxpayer may deduct in computing his production revenue for a taxation year an amount equal to that portion of his synthetic production revenue for the year that may reasonably be attributed to production of petroleum after April 1986 and before October 1986.”

(8) Subsection 82(3.2) of the said Act is repealed and the following substituted therefor:

“(3.2) An individual, other than a trust, may deduct in computing his production revenue for the 1986 taxation year an amount not exceeding \$1,500,000.”

(9) Subsections 82(5.1) and (5.2) of the said Act are repealed and the following substituted therefor:

“(5.1) Where a taxpayer is a beneficiary under a trust, an amount (other than an amount that was deemed to be produc-

(5) L'alinéa 82(2)d) de la même loi est abrogé et remplacé par ce qui suit :

«d) doit être inclus tout montant que l'alinéa 12(1)o) de la *Loi de l'impôt sur le revenu* exige d'inclure dans le calcul du revenu du contribuable et qui peut raisonnablement être considéré comme ayant trait à la production de pétrole ou de gaz antérieure à octobre 1986»

(6) Le sous-alinéa 82(2)f)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) dans le calcul de son revenu pour une année d'imposition finissant après 1984, tout montant qui serait déductible dans l'année en application de l'alinéa 20(1)mm) de la *Loi de l'impôt sur le revenu*, si la mention dans cet alinéa de «injectée avant cette date» était interprétée comme signifiant «injectée dans l'année et avant octobre 1986».»

(7) L'article 82 de la même loi est modifié par insertion, après le paragraphe (2), de ce qui suit :

«(2.1) Tout contribuable peut déduire dans le calcul de son revenu de production pour une année d'imposition la partie de son revenu de production par synthèse pour l'année qu'il est raisonnable d'attribuer à la production de pétrole postérieure à avril 1986 et antérieure à octobre 1986.»

(8) Le paragraphe 82(3.2) de la même loi est abrogé et remplacé par ce qui suit :

«(3.2) Tout particulier, à l'exception d'une fiducie, peut déduire dans le calcul de son revenu de production pour l'année d'imposition 1986 un montant maximal de 1 500 000 \$.»

(9) Les paragraphes 82(5.1) et (5.2) de la même loi sont abrogés et remplacés par ce qui suit :

«(5.1) Lorsqu'un contribuable est bénéficiaire d'une fiducie, le montant — à l'exclusion du montant réputé, conformé-

Deduction for synthetic production

1986, c. 2, s. 3(6)

Individual deduction

1986, c. 2, s. 3(7)

Taxpayer as beneficiary under trust

Déduction relative à la production par synthèse

1986, ch. 2, par. 3(6)

Déduction par un particulier

1986, ch. 2, par. 3(7)

Contribuable bénéficiaire d'une fiducie

tion revenue of the taxpayer pursuant to subsection (5)) that may, having regard to all the circumstances including the terms and conditions of the trust arrangement, reasonably be considered to be the taxpayer's share of that portion of the production revenue of the trust for a taxation year that may reasonably be attributed to the period in the year commencing on the latest of

(a) the first day of the year,

(b) January 1, 1986, and

(c) the date on which the taxpayer first became a beneficiary under the trust,

shall, if so designated by the trust in respect of the taxpayer in the trust's return of production revenue for the year and not designated under this section by the trust in respect of any other beneficiary thereunder, be deemed to be production revenue of the taxpayer for the taxation year of the taxpayer in which the taxation year of the trust ended.

(5.2) Subsection (5.1) does not apply in respect of a non-resident person not carrying on a business described in subparagraph 66(15)(h)(i) of the *Income Tax Act* through one or more fixed places of business in Canada."

(10) Subsections (1) and (3) to (9) are applicable to the 1986 and subsequent taxation years.

(11) Subsection (2) is applicable to taxation years ending after August 1986.

3. (1) Paragraphs 82.1(2)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) the aggregate of all prescribed exploration and development expenses made or incurred by the taxpayer after 1982, before October 1986 and before that time in respect of the project,

(b) the amount by which the capital cost to the taxpayer of each property that is prescribed enhanced recovery equipment acquired by the taxpayer after 1982, before October 1986 and

ment au paragraphe (5), être le revenu de production du contribuable — qui peut raisonnablement être considéré, compte tenu de toutes les circonstances, y compris les modalités du contrat de fiducie, comme la part du contribuable de la fraction du revenu de production de la fiducie pour une année d'imposition pouvant raisonnablement être attribuée à la période de l'année commençant au dernier en date du premier jour de l'année, du 1^{er} janvier 1986 ou du jour où le contribuable est devenu bénéficiaire de la fiducie pour la première fois, est réputé, si la fiducie attribue dans sa déclaration de revenu de production pour l'année ce revenu au contribuable sans l'attribuer en vertu du présent article à un autre de ses bénéficiaires, être le revenu de production du contribuable pour l'année d'imposition de celui-ci au cours de laquelle l'année d'imposition de la fiducie s'est terminée.

(5.2) Le paragraphe (5.1) ne s'applique pas à une personne non résidente qui n'exploite pas une entreprise visée au sous-alinéa 66(15)h(i) de la *Loi de l'impôt sur le revenu* à un ou plusieurs établissements permanents situés au Canada.»

(10) Les paragraphes (1) et (3) à (9) s'appliquent aux années d'imposition 1986 et suivantes.

(11) Le paragraphe (2) s'applique aux années d'imposition se terminant après août 1986.

3. (1) Les alinéas 82.1(2)a) et b) de la même loi sont abrogés et remplacés par ce qui suit :

«a) du total de tous les frais d'exploration et d'aménagement prescrits supportés ou engagés par le contribuable après 1982, avant octobre 1986 et avant cette date relativement au projet,

b) de l'excédent du coût en capital, pour le contribuable, de chaque bien qui est du matériel de récupération assistée prescrit qu'il a acquis après 1982, avant octobre 1986 et avant cette date en vue

Non-application

Paragraphe (5.1) inapplicable aux non-résidents

1984, c. 46, s. 3(1)

1984, ch. 46, par. 3(1)

before that time for use in the project exceeds any amount included therein that is in respect of financing,”

de l'utiliser dans le projet, sur tout montant y étant inclus et se rapportant au financement,»

1984, c. 46, s. 3(1)

(2) Paragraph 82.1(2)(d) of the said Act is repealed and the following substituted therefor:

(2) L'alinéa 82.1(2)d) de la même loi est abrogé et remplacé par ce qui suit :

1984, ch. 46, par. 3(1)

“(d) any amount referred to in paragraph (f), (g) or (h) that is established by the taxpayer to have become a bad debt before October 1986 and before 10 that time”

«d) de tout montant visé à l'alinéa f), g) ou h) que le contribuable établit comme une mauvaise créance avant octobre 1986 et avant cette date,»

1984, c. 46, s. 3(1)

(3) Paragraph 82.1(2)(f) of the said Act is repealed and the following substituted therefor:

(3) L'alinéa 82.1(2)f) de la même loi est abrogé et remplacé par ce qui suit :

1984, ch. 46, par. 3(1)

“(f) any amount that became receivable 15 by the taxpayer before that time, as a result of a transaction that occurred after 1982 and before October 1986 for which the consideration given by the taxpayer was property (other than a 20 share or a Canadian resource property, or an interest therein or a right thereto) or services, the original cost of which to the taxpayer may reasonably be regarded as having been an expense referred to 25 in paragraph (a) in respect of the project,”

«f) un montant qu'il est devenu en droit de recevoir avant cette date, à la suite d'une opération conclue après 1982 et avant octobre 1986, en contrepartie 15 duquel le contribuable a donné un bien (à l'exception d'une action, d'un avoir minier canadien ou d'un droit afférent à l'une ou à l'autre) ou des services, dont le coût initial supporté par le contribu- 20 ble peut raisonnablement être considéré comme étant des frais visés à l'alinéa a) et relatifs au projet,»

1984, c. 46, s. 3(1)

(4) All that portion of paragraph 82.1(2)(g) of the said Act preceding subparagraph (i) thereof is repealed and the 30 following substituted therefor:

(4) Le passage de l'alinéa 82.1(2)g) de la même loi qui précède le sous-alinéa (i) est 25 abrogé et remplacé par ce qui suit :

1984, ch. 46, par. 3(1)

“(g) any amount that is, in respect of a disposition before October 1986 and before that time of a property referred to in paragraph (b), the lesser of” 35

«g) un montant qui est, relativement à une disposition, antérieure à octobre 1986 et à cette date, d'un bien visé à l'alinéa b), le moins élevé des montants 30 suivants :»

1984, c. 46, s. 3(1)

(5) Paragraphs 82.1(2)(h) and (i) of the said Act are repealed and the following substituted therefor:

(5) Les alinéas 82.1(2)h) et i) de la même loi sont abrogés et remplacés par ce qui suit :

1984, ch. 46, par. 3(1)

“(h) any amount that become receivable by the taxpayer after 1982, before 40 October 1986 and before that time, in respect of an expense referred to in paragraph (a) in respect of the project, from another person pursuant to an agreement between the taxpayer and 45 that other person to unitize the field in which the project is located,

«h) un montant que le contribuable est devenu en droit de recevoir après 1982, 35 avant octobre 1986 et avant cette date relativement à des frais visés à l'alinéa a) et relatifs au projet, d'une autre personne conformément à un accord conclu entre le contribuable et cette autre per- 40 sonne pour unir le champ dans lequel le projet est situé,

(i) any amount received before October 1986 and before that time on account of any amount referred to in paragraph (d),”

i) un montant reçu avant octobre 1986 et avant cette date au titre d'un montant visé à l'alinéa d),»

(6) Subsections (1) to (5) are applicable to the 1986 and subsequent taxation years.

(6) Les paragraphes (1) à (5) s'appliquent aux années d'imposition 1986 et suivantes.

4. (1) Subsection 84(1) of the said Act is amended by adding the word “and” at the end of paragraph (a) thereof and by repealing paragraphs (b) to (d) thereof and substituting the following therefor:

4. (1) Les alinéas 84(1)b) à d) de la même loi sont abrogés et remplacés par ce qui suit :

“(b) where the taxation year ends after 1986, is the aggregate of

«b) pour l'année d'imposition qui se termine après 1986, le total :

(i) 13.33% of the lesser of

(i) de 13,33 % du moins élevé des 10 montants suivants :

(A) the amount, if any, by which the production revenue of the taxpayer for the year exceeds his synthetic production revenue for the year, and

(A) l'excédent éventuel du revenu de production du contribuable pour l'année sur son revenu de production par synthèse pour l'année,

(B) the production revenue of the taxpayer for the year, and

(B) le revenu de production du contribuable pour l'année,

(ii) 12% of the lesser of

(ii) et de 12 % du moins élevé des montants suivants :

(A) the amount, if any, by which the production revenue of the taxpayer for the year exceeds the lesser of the amounts determined under clauses (i)(A) and (B), and

(A) l'excédent éventuel du revenu de production du contribuable pour l'année sur le moindre des montants déterminés en vertu des divisions (i)(A) ou (B),

(B) the synthetic production revenue of the taxpayer for the year.”

(B) le revenu de production par synthèse du contribuable pour l'année.»

1986, c. 2, s. 6(1)

(2) All that portion of subsection 84(2.1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

(2) Le passage du paragraphe 84(2.1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

1986, ch. 2, par. 6(1)

Trust revenue

“(2.1) Where a corporation has included an amount in computing its production revenue for a taxation year by virtue of subsection 82(5) or (5.1) and”

«(2.1) Lorsqu'une corporation a inclus un montant par application du paragraphe 82(5) ou (5.1) dans le calcul de son revenu de production pour une année d'imposition et que»

Revenu d'une fiducie

(3) All that portion of subsection 84(4) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

(3) Le passage du paragraphe 84(4) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

Definition of “exploration and development expense tax credit”

“(4) For the purposes of this section, “exploration and development expense tax credit” of a taxpayer at the end of a taxation year means the amount, if any, by which

«(4) Pour l'application du présent article, «crédit d'impôt au titre des dépenses d'exploration et d'aménagement» d'un contribuable à la fin d'une année d'imposition s'entend de l'excédent éventuel»

Définition de «crédit d'impôt au titre des dépenses d'exploration et d'aménagement»

(4) Section 84 of the said Act is further amended by adding thereto the following subsections:

“ (7) Where the exploration and development expense tax credit of a taxpayer at the end of a taxation year exceeds the amount deducted under subsection (3) from the tax payable under this Division by him for the year, the taxpayer may, by filing an election in prescribed form with the Minister within 3 years after the end of the year, elect to have this subsection apply to him for the year in respect of the amount, not exceeding the excess, set out in the election, and in that case the following rules apply:

(a) the taxpayer shall be deemed to have paid, on the day the election is filed with the Minister, the amount set out in the election on account of his tax payable under this Division for the year; and

(b) for the purpose of computing his exploration and development expense tax credit at the end of any subsequent taxation year, the amount set out in the election shall be deemed to have been deducted under subsection (3) from the tax payable under this Division by the taxpayer for the year for which the election was filed.

(8) Where a taxpayer has made an election under subsection (7) for a taxation year, the taxpayer shall not make another election under that subsection for that year.”

(5) Subsections (1) to (4) are applicable to the 1986 and subsequent taxation years.

5. (1) Subsection 84.1(1) of the said Act is amended by striking out the word “and” at the end of paragraph (a) thereof, by adding the word “and” at the end of paragraph (b) thereof and by adding thereto the following paragraph:

“(c) in respect of the taxation years of the corporation that end after 1985, the least of

(i) the amount of tax determined under subparagraph (a)(i) for the

(4) L'article 84 de la même loi est modifié par adjonction de ce qui suit :

« (7) Lorsque le crédit d'impôt au titre des dépenses d'exploration et d'aménagement d'un contribuable à la fin d'une année d'imposition excède le montant déduit en application du paragraphe (3) de l'impôt payable par ce contribuable en vertu de la présente section pour cette année, celui-ci peut, sur formulaire prescrit à produire au ministre dans les trois années suivant la fin de cette année, choisir un montant pour cette année qui ne dépasse pas cet excédent, auquel cas :

a) le contribuable est réputé avoir payé ce montant au jour de production du choix, au titre de son impôt payable en vertu de la présente section pour cette année; et

b) aux fins du calcul du crédit d'impôt au titre des dépenses d'exploration et d'aménagement du contribuable à la fin de toute année d'imposition ultérieure, ce montant est réputé avoir été déduit en application du paragraphe (3) de l'impôt payable par le contribuable en vertu de la présente section pour l'année pour laquelle celui-ci a produit son choix.

(8) Le contribuable qui fait le choix prévu au paragraphe (7) pour une année d'imposition ne peut faire d'autre choix en application de ce paragraphe pour cette année.»

(5) Les paragraphes (1) à (4) s'appliquent aux années d'imposition 1986 et suivantes.

5. (1) Le paragraphe 84.1(1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa a), par adjonction de ce mot à la fin de l'alinéa b) et par adjonction de ce qui suit :

«c) pour les années d'imposition de la corporation qui finissent après 1985, du moins élevé des montants suivants :

(i) le montant d'impôt déterminé en vertu du sous-alinéa a)(i) pour l'an-

Remboursement du crédit d'impôt

Choix unique

1984, ch. 46, par. 6(1)

Refund of tax credit

Replacing election

1984, c. 46, s. 6(1)

year on that portion of its eligible production revenue for the year that may reasonably be attributed to production in the period in the year commencing May 1, 1986,

(ii) three times that proportion of the corporation's allocated limit for the year that the number of days after April 1986 and before October 1986 in the year is of 365, and

(iii) the amount, if any, by which the tax determined under subparagraph (a)(i) for the year exceeds the amount determined under paragraph (a) for the year."

(2) Subsection 84.1(2) of the said Act is repealed and the following substituted therefor:

"(2) For the purposes of subsection (1), the "credit limit" of a corporation for a taxation year is that proportion of the corporation's allocated limit for the year that the number of days before October 1986 in the year is of 365."

(3) All that portion of paragraph 84.1(6)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) the amount that would be the production revenue for the year of the corporation (other than an amount, if any, included therein by virtue of subsection 82(5) or (5.1), or by virtue of the corporation being a member of a partnership) that may reasonably be attributed to the period in the year commencing after May 31, 1982, if"

(4) Subsection 84.1(6) of the said Act is further amended by striking out the word "or" at the end of paragraph (b) thereof, by adding the word "or" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(d) the lesser of
(i) the amount by which the production revenue of the corporation for the year exceeds the aggregate of the

née sur la partie de son revenu admissible de production pour l'année qu'il est raisonnable d'attribuer à la production de la période de l'année commençant le 1^{er} mai 1986,

(ii) trois fois le produit de la limite allouée à la corporation pour l'année par le rapport entre le nombre de jours de l'année postérieurs à avril 1986 et antérieurs à octobre 1986 et 365,

(iii) l'excédent éventuel de l'impôt déterminé en vertu du sous-alinéa a)(i) pour l'année sur le montant déterminé à l'alinéa a) pour l'année."

(2) Le paragraphe 84.1(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Pour l'application du paragraphe (1), la limite de crédit d'une corporation pour une année d'imposition est égale au produit de la limite allouée à la corporation pour l'année par le rapport entre le nombre de jours de l'année antérieurs à octobre 1986 et 365.»

(3) Le passage de l'alinéa 84.1(6)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«a) soit le montant qui constituerait le revenu de production de la corporation pour l'année (à l'exception du montant éventuel qui y est inclus en application du paragraphe 82(5) ou (5.1) ou parce que la corporation est membre d'une société de personnes) qui peut raisonnablement être attribué à la période de l'année qui commence après le 31 mai 1982 si, à la fois :»

(4) Le paragraphe 84.1(6) de la même loi est modifié par adjonction de ce qui suit :

«d) soit le moins élevé :
(i) de l'excédent du revenu de production de la corporation pour l'année sur le total des montants déterminés

1984, c. 46, s. 6(1)

Definition of "credit limit"

1984, c. 46, s. 6(1)

1984, c. 46, s. 6(1)

1984, ch. 46, par. 6(1)

Limite de crédit

1984, ch. 46, par. 6(1)

1984, ch. 46, par. 6(1)

	amounts determined under paragraphs (a) to (c) in respect of the corporation for the year, and (ii) its royalty exemption limit for the year.”	5	en vertu des alinéas a) à c) pour la corporation pour l'année, (ii) de l'exemption maximale pour redevances pour l'année.»	
1984, c. 46, s. 6(1)	(5) Section 84.1 of the said Act is further amended by adding thereto, immediately after subsection (6) thereof, the following subsections:		(5) L'article 84.1 de la même loi est modifié par insertion, après le paragraphe (6), de ce qui suit :	5 1984, ch. 46, par. 6(1)
Royalty exemption limit	“(6.1) For the purposes of subparagraph 84.1(6)(d)(ii), the royalty exemption limit of a corporation for a taxation year is that proportion of the corporation's allocated exemption limit for the year that the number of days after 1985 and before 15 October 1986 in the year is of 365.	10	«(6.1) Pour l'application du sous-alinéa 84.1(6)d)(ii), l'exemption maximale pour redevances d'une corporation pour une 10 année d'imposition correspond au produit de l'exemption maximale attribuée à la corporation pour l'année par le rapport entre le nombre de jours de l'année postérieurs à 1985 et antérieurs à octobre 1986 15 et 365.	Exemption maximale pour redevances
Allocated exemption limit	(6.2) For the purposes of subsection (6.1), the allocated exemption limit of a corporation for a taxation year is (a) \$2,000,000, where the corporation 20 is not associated in the year with one or more other corporations; or (b) the amount allocated to the corporation under subsection (6.3) or (6.4), where the corporation is associated in 25 the year with one or more other corporations.	25	(6.2) Pour l'application du paragraphe (6.1), l'exemption maximale attribuée à une corporation pour une année d'imposition est : 20 a) 2 000 000 \$ si, au cours de cette année, la corporation n'est pas associée à une ou plusieurs autres corporations; b) le montant attribué à la corporation en vertu du paragraphe (6.3) ou (6.4) si, 25 au cours de cette année, la corporation est associée à une ou plusieurs autres corporations.	Exemption maximale attribuée
Allocation of exemption limit	(6.3) The corporations in a group that, in a taxation year, are associated with each other may file with the Minister in 30 prescribed form an agreement whereby, for the purpose of paragraph (6.2)(b), they allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may 35 be, is \$2,000,000.	35	(6.3) Les corporations d'un groupe qui, au cours d'une année d'imposition, sont 30 associées les unes aux autres peuvent produire au ministre, sur formulaire prescrit, un accord par lequel, pour l'application de l'alinéa (6.2)b), elles attribuent à l'une d'elles ou répartissent entre plusieurs d'en- 35 tre elles pour l'année un montant maximal de 2 000 000 \$.	Répartition
Failure to file agreement	(6.4) If any of the corporations in a group referred to in subsection (6.3) fails to file with the Minister an agreement as contemplated by that subsection within 30 40 days after notice in writing by the Minister has been forwarded to any of them that such an agreement is required for the purpose of any assessment of tax for a taxation year under this Division, the Minister 45 shall, for the purpose of paragraph	45	(6.4) À défaut de production d'un tel accord par toutes les corporations d'un groupe visées au paragraphe (6.3) dans les 40 30 jours suivant avis écrit par le ministre envoyé à l'une de ces corporations qu'un tel accord est nécessaire à l'établissement d'une cotisation concernant l'impôt payable en vertu de la présente section pour 45 une année d'imposition, le ministre doit, pour l'application de l'alinéa (6.2)b), attri-	Défaut d'accord

(6.2)(b), allocate an amount to one or more of them for the year, which amount or the aggregate of which amounts, as the case may be, is \$2,000,000.”

(6) Subsections (1) to (5) are applicable to the 1986 and subsequent taxation years.

6. Section 87 of the said Act is amended by adding thereto, immediately after subsection (4) thereof, the following subsection:

“(4.1) Where the Minister would, but for this subsection, be entitled to reassess, make an additional assessment or assess tax, interest or penalties by virtue only of the filing of a waiver under subparagraph (4)(a)(ii), the Minister may not make such reassessment, additional assessment or assessment after the day that is six months after the date on which a notice of revocation of the waiver in prescribed form is filed.”

Revocation of
waiver

1986, c. 2, s.
13(1)

7. (1) Subsections 99(1) and (1.1) of the said Act are repealed and the following substituted therefor:

“99. (1) A tax shall be payable by every non-resident person (in this section referred to as the “recipient”) on every amount received by the recipient as, on account of or in lieu of payment of, or in satisfaction of a resource royalty, computed by reference to the amount or value of production of petroleum or gas after 1985 and before October 1986, unless the recipient, at the time of the receipt of the resource royalty, carries on a business described in subparagraph 66(15)(h)(i) of the *Income Tax Act* through one or more fixed places of business in Canada.

Tax payable by
non-resident
persons

Computation of
tax

(1.1) The tax payable by a person under this Division in respect of

(a) a resource royalty (other than a resource royalty on synthetic production) shall, where the royalty is computed by reference to the amount or value of production of petroleum or gas, be 13.33% of the amount of such royalty; and

buer à l'une d'elles ou répartir entre plusieurs d'entre elles pour l'année le montant maximal de 2 000 000 \$.»

(6) Les paragraphes (1) à (5) s'appliquent aux années d'imposition 1986 et suivantes.

6. L'article 87 de la même loi est modifié par insertion, après le paragraphe (4), de ce qui suit :

«(4.1) Le ministre ne peut, du seul fait qu'une renonciation lui a été adressée conformément au sous-alinéa (4)a)(ii), procéder à de nouvelles cotisations, en établir de supplémentaires ou fixer des impôts, intérêts ou pénalités plus de six mois après la date de production d'un avis de révocation de cette renonciation en la forme prescrite.»

Révocation
d'une
renonciation

7. (1) Les paragraphes 99(1) et (1.1) de la même loi sont abrogés et remplacés par ce qui suit :

“99. (1) Toute personne non résidente — appelée «bénéficiaire» au présent article — doit payer un impôt sur tout montant qu'elle reçoit au titre ou en paiement intégral ou partiel d'une redevance pétrolière calculée sur la quantité ou la valeur de la production de pétrole ou de gaz postérieure à 1985 et antérieure à octobre 1986, sauf si, au moment de la réception de la redevance pétrolière, le bénéficiaire exploite une entreprise visée au sous-alinéa 66(15)h(i) de la *Loi de l'impôt sur le revenu* à un ou plusieurs établissements permanents situés au Canada.

1986, ch. 2,
par. 13(1)

Impôt payable
par les
non-résidents

(1.1) L'impôt payable par une personne en vertu de la présente section est le suivant :

Calcul de
l'impôt

a) 13,33% sur les redevances pétrolières — à l'exclusion de celles sur de la production par synthèse — calculées sur la quantité ou la valeur de la production de pétrole ou de gaz;

b) 12% sur les redevances pétrolières sur de la production par synthèse calcu-

(b) a resource royalty on synthetic production shall, where the royalty is computed by reference to the amount or value of production of petroleum or gas, be 12% of the amount of such royalty.” 5

(2) Subsection (1) is applicable to royalties paid after 1985 and computed by reference to the amount or value of production after 1985.

8. The *Petroleum and Gas Revenue Tax Act* is repealed at the time it ceases to apply, by reason of section 79.1 of the said Act, in respect of income or loss from a source referred to in paragraphs 82(1)(a) to (b.1) of the said Act.

lées sur la quantité ou la valeur de la production de pétrole ou de gaz.»

(2) Le paragraphe (1) s'applique aux redevances payées après 1985 et calculées sur la quantité ou la valeur de la production postérieure à 1985. 5

8. La *Loi de l'impôt sur les revenus pétroliers* est abrogée à la date où elle cesse de s'appliquer par l'effet de l'article 79.1 de la même loi en ce qui concerne le revenu ou les pertes provenant des sources visées aux 15 alinéas 82(1)a) à b.1) de la même loi.

PART II

INCOME TAX ACT

R.S. 1952, c. 148; 1970-71-72, c. 63

9. Subsection 66.5(1) of the *Income Tax Act* is repealed and the following substituted therefor:

Deduction from income

“66.5 (1) In computing its income for a taxation year that ends before 1995, a corporation that has not made a designation for the year under subsection 66(14.1) or (14.2) may deduct such amount as it may claim not exceeding its cumulative offset account at the end of the year.” 20 25

PARTIE II

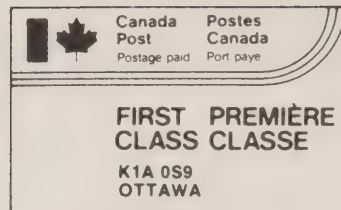
LOI DE L'IMPÔT SUR LE REVENU

S.R. 1952, ch. 148; 1970-71-72, ch. 63

9. Le paragraphe 66.5(1) de la *Loi de l'impôt sur le revenu* est abrogé et remplacé par ce qui suit : 15

Déduction dans le calcul du revenu

«66.5 (1) Une corporation peut déduire dans le calcul de son revenu pour une année d'imposition se terminant avant 1995 un montant qui ne dépasse pas le solde de son compte compensatoire cumulé à la fin de l'année si elle n'a pas désigné de montant pour cette année conformément au paragraphe 66(14.1) ou (14.2).» 20



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House of Commons
Chambre des communes
CANADA

NOTICE OF MOTION AVIS DE MOTION

WAYS AND MEANS VOIES ET MOYENS

Friday, October 31, 1986
Le vendredi 31 octobre 1986

Notice of Ways and Means Motion to amend
the Income Tax Act and a related Act

Avis de motion des voies et moyens visant à
modifier la Loi de l'impôt sur le revenu
et une loi connexe

That it is expedient to amend the Income
Tax Act and a related Act as follows:

Il y a lieu de modifier ainsi la Loi de
l'impôt sur le revenu et une loi connexe :

PART I

INCOME TAX ACT

PARTIE I

LOI DE L'IMPÔT SUR LE REVENU

R.S. 1952, c.
148; 1970-71-
72, c. 63; 1972,
c. 9; 1973-74,
cc. 14, 29, 30,
44, 45, 49, 51;
1974-75-76, cc.
26, 50, 58, 71,
87, 88, 95;
1976-77, cc. 4,
10, 54;
1977-78, cc. 1,
4, 32, 41, 42;
1978-79, c. 5;
1979, c. 5;
1980-81-82-83,
cc. 40, 47, 48,
68, 102, 104,
109, 140; 1984,
cc. 1, 19, 31,
45; 1985, c. 45;
1986, cc. 6, 24

S.R. 1952, ch.
148; 170-71-72,
ch. 63; 1972,
ch. 9; 1973-74,
ch. 14, 29, 30,
44, 45, 49, 51;
1974-75-76, ch.
26, 50, 58, 71,
87, 88, 95;
1976-77, ch. 4,
10, 54;
1977-78, ch. 1,
4, 32, 41, 42;
1978-79, ch. 5;
1979, ch. 5;
1980-81-82-83,
ch. 40, 47, 48,
68, 102, 104,
109, 140; 1984,
ch. 1, 19, 31,
45; 1985, ch.
45; 1986, ch.
6, 24

1. (1) Subsection 6(1) of the *Income Tax Act* is amended by striking out the word "and" at the end of paragraph (g) thereof, by adding the word "and" at the end of paragraph (h) thereof and by adding thereto the following paragraph:

1. (1) Le paragraphe 6(1) de la *Loi de l'impôt sur le revenu* est modifié par suppression du mot «et» à la fin de l'alinéa g) et par adjonction de ce qui suit :

Salary deferral
arrangement
payments

"(i) the amount, if any, by which the aggregate of amounts received by any person as benefits (other than amounts received by or from a trust governed by a salary deferral arrangement) in the year out of or under a salary deferral arrangement in respect of the taxpayer exceeds the amount, if any, by which

(i) the aggregate of all deferred amounts under the arrangement that were included under paragraph (a) as benefits in computing the taxpayer's income for preceding taxation years exceeds

(ii) the aggregate of
(A) all deferred amounts received by any person in preceding taxation years

«i) l'excédent éventuel du total des montants reçus comme avantages par toute personne au cours de l'année dans le cadre d'une entente d'échelonnement du traitement applicable au contribuable — à l'exclusion des montants reçus par une fiducie régissant une entente d'échelonnement du traitement et des montants reçus d'une telle fiducie — sur l'excédent éventuel

(i) du total des montants différés dans le cadre de l'entente ajoutés comme avantages en vertu de l'alinéa a) dans le calcul du revenu du contribuable pour les années d'imposition antérieures

sur

Versements
dans le cadre
d'une entente
d'échelonne-
ment du
traitement

years out of or under the arrangement, and
(B) all deferred amounts under the arrangement that were deducted under paragraph 8(1)(o) in computing the taxpayer's income for the year or preceding taxation years."

(ii) le total des montants différés reçus par toute personne au cours des années d'imposition antérieures dans le cadre de l'entente et des montants différés dans le cadre de l'entente déduits en vertu de l'alinéa 8(1)o dans le calcul du revenu du contribuable pour l'année ou pour les années d'imposition antérieures.»

10

(2) Section 6 of the said Act is further amended by adding thereto the following subsections:

(2) L'article 6 de la même loi est modifié par adjonction de ce qui suit :

Salary deferral arrangement

"(11) Where at the end of a taxation year any person has a right under a salary deferral arrangement in respect of a taxpayer to receive a deferred amount, an amount equal to the deferred amount shall be deemed, for the purposes only of paragraph (1)(a), to have been received by the taxpayer as a benefit in the year, to the extent that the amount was not otherwise included in computing the taxpayer's income for the year or any preceding taxation year.

«(11) Tout montant différé que, à la fin d'une année d'imposition, une personne a le droit de recevoir dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable est réputé, pour l'application du seul alinéa (1)a), reçu par ce contribuable comme avantage dans l'année, dans la mesure où il n'est pas par ailleurs ajouté dans le calcul du revenu du contribuable pour l'année ou pour une année d'imposition antérieure.

Entente d'échelonnement du traitement

Idem

(12) Where at the end of a taxation year any person has a right under a salary deferral arrangement (other than a trust governed by a salary deferral arrangement) in respect of a taxpayer to receive a deferred amount, an amount equal to any interest or other additional amount that accrued to that person or for his benefit to the end of the year in respect of the deferred amount shall be deemed at the end of the year, for the purposes only of subsection (11), to be a deferred amount that the person has a right to receive under the arrangement.

(12) Pour l'application du seul paragraphe (11), lorsque, à la fin d'une année d'imposition, une personne a le droit dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable — sauf si l'entente est régie par une fiducie — de recevoir un montant différé, la somme correspondant aux intérêts ou autres suppléments courus à la fin de l'année au profit de la personne sur le montant différé est réputée, à la fin de l'année, être un montant différé que la personne a le droit de recevoir dans le cadre de l'entente.

Intérêts sur les montants différés

Application

(13) Subsection (11) does not apply in respect of a deferred amount under a salary deferral arrangement in respect of a taxpayer that was established primarily for the benefit of one or more non-resident employees in respect of services to be rendered in a country other than Canada, to the extent that the deferred amount

(13) Le paragraphe (11) ne s'applique pas à un montant différé dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable faite principalement au profit d'un ou de plusieurs employés non-résidents pour des services à rendre dans un autre pays que le Canada, dans la mesure où le montant différé :

Paragraphe (11) inapplicable aux non-résidents

(a) was in respect of services rendered by an employee who

(i) was not resident in Canada at the time the services were rendered, or
 (ii) was resident in Canada for a period (in this subsection referred to as an "excluded period") of not more than 36 of the 72 months preceding the time the services were rendered and was an employee to whom the arrangement applied before he became resident in Canada; and

(b) cannot reasonably be regarded as being in respect of services rendered or to be rendered during a period (other than an excluded period) when the employee was resident in Canada.

(14) Where deferred amounts under a salary deferral arrangement in respect of a taxpayer (in this subsection referred to as "that arrangement") are required to be included as benefits under paragraph (1)(a) in computing his income and that arrangement is part of a plan or arrangement (in this subsection referred to as the "plan") under which amounts or benefits not related to the deferred amounts are payable or provided, for the purposes of this Act, other than this subsection,

(a) that arrangement shall be deemed to be a separate arrangement independent of other parts of the plan of which it is a part; and

(b) where any person has a right to a deferred amount under that arrangement, an amount received by the person as a benefit at any time out of or under the plan shall be deemed to have been received out of or under that arrangement except to the extent that it exceeds the amount, if any, by which

(i) the aggregate of all deferred amounts under that arrangement that were included under paragraph (1)(a) as benefits in computing the taxpayer's income for taxation years ending before that time

exceeds

(ii) the aggregate of

(A) all deferred amounts received by any person before that time out

a) correspond à des services rendus par un employé

(i) qui ne réside pas au Canada à la date où il rend ces services, ou

(ii) qui a résidé au Canada pendant une période d'au maximum 36 des 72 mois précédant la date où il rend ces services et était un employé auquel l'entente s'appliquait avant qu'il ne commence à résider au Canada; et

b) ne peut raisonnablement être considéré comme correspondant à des services rendus ou à rendre pendant une autre période — où l'employé réside au Canada — que celle visée au sous-alinéa 15 a)(ii).

(14) Pour l'application de la présente loi, lorsque des montants différés dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable doivent être ajoutés comme avantages en vertu de l'alinéa (1)a) dans le calcul du revenu du contribuable et que cette entente fait partie d'un régime ou arrangement prévoyant le paiement de montants ou l'obtention d'avantages, sans rapport avec les montants différés,

a) l'entente est réputée distincte et indépendante des autres parties du régime ou de l'arrangement;

b) un montant reçu comme avantage à une date quelconque dans le cadre du régime ou de l'arrangement par une personne qui a droit à un montant différé dans le cadre de l'entente est réputé reçu dans le cadre de l'entente, jusqu'à concurrence de l'excédent éventuel

(i) du total des montants différés dans le cadre de l'entente qui sont ajoutés comme avantages en vertu de l'alinéa (1)a) dans le calcul du revenu du contribuable pour les années d'imposition se terminant avant cette date

sur

(ii) le total

(A) des montants différés reçus par une personne avant cette date dans le cadre du régime ou de l'arrangement et réputés par le présent

Entente faisant partie d'un régime ou arrangement

Part of plan or arrangement

of or under the plan that were deemed by this paragraph to have been received out of or under that arrangement, and

(B) all deferred amounts under that arrangement that were deducted under paragraph 8(1)(o) in computing the taxpayer's income for the year or preceding taxation years." 10

(3) Subsections (1) and (2) are applicable to the 1986 and subsequent taxation years.

2. (1) Subsection 8(1) of the said Act is amended by striking out the word "and" at the end of paragraph (m) thereof and by adding thereto, immediately after paragraph (m) thereof, the following paragraph:

"(m.1) the portion, in excess of \$3,500, of the aggregate of the amounts (other than voluntary contributions) that the taxpayer contributes in the year to or under a registered pension fund or plan in respect of services rendered by him in the year where his pension entitlement under the fund or plan is determined without reference to the amount accumulated or contributed thereunder;" 20 25

(2) Subsection 8(1) of the said Act is further amended by adding the word "and" at the end of paragraph (n) thereof and by adding thereto the following paragraph:

"(o) where at the end of the year the rights of any person to receive benefits under a salary deferral arrangement in respect of the taxpayer have been extinguished or no person has any further right to receive any amount under the arrangement, the amount, if any, by which the aggregate of all deferred amounts under the arrangement included in computing his income for the year and preceding taxation years as benefits under paragraph 6(1)(a) exceeds the aggregate of 45

(i) all such deferred amounts received by any person in that year or preceding taxation years out of or under the arrangement,

alinéa reçus dans le cadre de l'entente, et

(B) des montants différés dans le cadre de l'entente déduits en vertu de l'alinéa 8(1)(o) dans le calcul du revenu du contribuable pour l'année ou pour les années d'imposition antérieures.» 5

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1986 et suivantes. 10

2. (1) Le paragraphe 8(1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa m) et par insertion, après cet alinéa, de ce qui suit :

«m.1) l'excédent, sur 3 500 \$, du total des cotisations (à l'exclusion des cotisations volontaires) que le contribuable verse dans l'année dans le cadre de quelque caisse ou régime enregistré de pensions, correspondant à des services qu'il rend dans l'année, lorsque les prestations prévues par la caisse ou le régime sont déterminées sans tenir compte des fonds qui y sont accumulés;» 15 Idem 20

(2) Le paragraphe 8(1) de la même loi est modifié par adjonction de ce qui suit :

«o) dans le cas où, à la fin de l'année, les droits d'une personne de recevoir des avantages dans le cadre d'une entente d'échelonnement du traitement applicable au contribuable sont éteints et où personne n'a un autre droit de recevoir un montant dans le cadre de l'entente, l'excédent éventuel du total des montants différés dans le cadre de l'entente ajoutés comme avantages en vertu de l'alinéa 6(1)(a) dans le calcul du revenu du contribuable pour l'année et pour les années d'imposition antérieures sur le total des montants suivants : 30 35 40

(i) ceux de ces montants différés reçus par toute personne au cours de

Montants différés perdus

Idem

Forfeited amounts

(ii) all such deferred amounts receivable by any person in subsequent taxation years out of or under the arrangement, and

(iii) all amounts deducted under this paragraph in computing his income for preceding taxation years in respect of deferred amounts under the arrangement.”

(3) Subsections (1) and (2) are applicable to the 1986 and subsequent taxation years.

3. (1) Subsection 12(1) of the said Act is amended by adding thereto, immediately after paragraph (n.1) thereof, the following paragraph:

“(n.2) where deferred amounts under a salary deferral arrangement in respect of another person have been deducted under paragraph 20(1)(oo) in computing the taxpayer’s income for preceding taxation years, any amount in respect of the deferred amounts that was deductible under paragraph 8(1)(o) in computing the income of the person for a taxation year ending in the year;”

(2) Paragraph 12(1)(t) of the said Act is repealed and the following substituted therefor:

“(t) the amount deducted under subsection 127(5) or (6) in computing the taxpayer’s tax payable for the year to the extent that it is not included in an amount determined under paragraph 13(7.1)(e), subparagraph 13(21)(f)(vii), paragraph 37(1)(e) or subparagraph 53(2)(c)(vi), 53(2)(h)(ii) or 66.1(6)(b)(xi);”

(3) Paragraph 12(11)(a) of the said Act is repealed and the following substituted therefor:

“(a) “investment contract”, in relation to a taxpayer, means any debt obligation (other than a salary deferral arrangement, an income bond, an income debenture, a small business development bond, a small

l’année ou des années d’imposition antérieures dans le cadre de l’entente, (ii) ceux de ces montants différés à recevoir par toute personne au cours des années d’imposition ultérieures dans le cadre de l’entente, (iii) les montants déduits en vertu du présent alinéa dans le calcul du revenu du contribuable pour les années d’imposition antérieures dans le cadre de l’entente.»

(3) Les paragraphes (1) et (2) s’appliquent aux années d’imposition 1986 et suivantes.

3. (1) Le paragraphe 12(1) de la même loi est modifié par insertion, après l’alinéa n.1), 15 de ce qui suit :

«n.2) dans le cas où les montants différés dans le cadre d’une entente d’échelonnement du traitement applicable à une autre personne ont été déduits en vertu de l’alinéa 20(1)oo) dans le calcul du revenu du contribuable pour les années d’imposition antérieures, tout montant au titre des montants différés déductible en vertu de l’alinéa 8(1)o) dans le calcul du revenu de cette personne pour une année d’imposition se terminant au cours de l’année;»

(2) L’alinéa 12(1)t) de la même loi est abrogé et remplacé par ce qui suit :

«t) la somme déduite en vertu du paragraphe 127(5) ou (6) dans le calcul de l’impôt payable par le contribuable pour l’année, dans la mesure où cette somme n’est pas incluse dans une somme déterminée en vertu de l’alinéa 13(7.1)e), du sous-alinéa 13(21)f)(vii), de l’alinéa 37(1)e) ou du sous-alinéa 53(2)c)(vi), 53(2)h)(ii) ou 66.1(6)b)(xi);»

(3) L’alinéa 12(11)a) de la même loi est abrogé et remplacé par ce qui suit :

«a) «contrat de placement» s’entend, en ce qui concerne un contribuable, de toute créance — sauf une entente d’échelonnement du traitement, une obligation à intérêt conditionnel, une

Forfeited salary deferral amounts

Montants différés perdus

Investment tax credit

Crédit d’impôt à l’investissement

“Investment contract”

«contrat de placement»

business bond or a prescribed contract);
and”

obligation pour le développement de la
petite entreprise, une obligation pour la
petite entreprise ou un contrat prescrit
— ;»

(4) Subsections (1) and (3) are applicable
to the 1986 and subsequent taxation years.

(4) Les paragraphes (1) et (3) s'appliquent 5
aux années d'imposition 1986 et suivantes.

(5) Subsection (2) is applicable after 5
November 30, 1985.

(5) Le paragraphe (2) s'applique après le
30 novembre 1985.

4. (1) Subsection 18(1) of the said Act is
amended by adding thereto, immediately
after paragraph (o) thereof, the following
paragraph: 10

4. (1) Le paragraphe 18(1) de la même loi
est modifié par insertion, après l'alinéa o) de 10
ce qui suit :

Salary deferral
arrangement

“(o.1) except as expressly permitted by
paragraph 20(1)(oo), an outlay or
expense made or incurred under a salary
deferral arrangement in respect of
another person other than an arrange- 15
ment established primarily for the ben-
efit of one or more non-resident
employees in respect of services to be
rendered in a country other than
Canada;” 20

«o.1) sauf ce qui est prévu à l'alinéa
20(1)oo), un débours ou une dépense
fait ou engagé en vertu d'une entente
d'échelonnement du traitement applica- 15
ble à une autre personne, à condition
que l'entente ne soit pas faite principale-
ment au profit d'un ou de plusieurs
employés non-résidents pour des services
à rendre dans un autre pays que le 20
Canada;»

Dépenses en
vertu d'une
entente
d'échelonne-
ment du
traitement

(2) Subsection 18(9) of the said Act is
amended by striking out the word “and” at
the end of paragraph (b) thereof, by adding
the word “and” at the end of paragraph (c)
thereof and by adding thereto the following 25
paragraph:

(2) Le paragraphe 18(9) de la même loi
est modifié par suppression du mot «et» à la
fin de l'alinéa b), par adjonction de ce mot
après l'alinéa c) et par adjonction de ce qui 25
suit :

“(d) for the purposes of paragraph (a),
an outlay or expense shall be deemed
not to include any payment referred to
in subparagraph 37(1)(a)(vi).” 30

«d) pour l'application de l'alinéa a), un
débours ou une dépense est réputé ne
pas comprendre un versement visé au
sous-alinéa 37(1)a)(vi).» 30

(3) Subsection (1) is applicable to the
1986 and subsequent taxation years.

(3) Le paragraphe (1) s'applique aux
années d'imposition 1986 et suivantes.

(4) Subsection (2) is applicable with
respect to payments made after February 25,
1986. 35

(4) Le paragraphe (2) s'applique aux ver-
sements effectués après le 25 février 1986.

5. (1) Paragraph 20(1)(gg) of the said
Act is repealed.

5. (1) L'alinéa 20(1)gg) de la même loi 35
est abrogé.

(2) Subsection 20(1) of the said Act is
further amended by striking out the word
“and” at the end of paragraph (mm) thereof, 40
by adding the word “and” at the end of
paragraph (nn) thereof and by adding there-
to the following paragraph:

(2) Le paragraphe 20(1) de la même loi
est modifié par adjonction de ce qui suit :

Salary deferral
arrangement

“(oo) any deferred amount under a
salary deferral arrangement in respect 45

«oo) un montant différé dans le cadre
d'une entente d'échelonnement du trai- 40

Entente
d'échelonne-
ment du
traitement

of another person to the extent that it was

- (i) included under paragraph 6(1)(a) as a benefit in computing the income of the other person for the taxation year of the other person that ends in the taxpayer's taxation year, and
(ii) in respect of services rendered to the taxpayer."

tement applicable à une autre personne, dans la mesure où il est ajouté comme avantage en vertu de l'alinéa 6(1)a) dans le calcul du revenu de cette autre personne pour l'année d'imposition de celle-ci qui se termine dans l'année d'imposition du contribuable et dans la mesure où il correspond à des services rendus au contribuable.»

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(3) Subsection (1) is applicable to taxation years commencing after February 25, 1986 and, in the application of paragraph 20(1)(gg) of the said Act to taxation years that include that date, the reference therein to "the number of days in the year" shall be read as a reference to "the number of days in the year and before February 26, 1986".

(3) Le paragraphe (1) s'applique aux années d'imposition commençant après le 25 février 1986. Toutefois, pour l'application de l'alinéa 20(1)gg) de la même loi aux années d'imposition qui comprennent cette date, la mention à cet alinéa «le nombre de jours dans l'année» est remplacée par la mention «le nombre de jours de l'année antérieurs au 26 février 1986».

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(4) Subsection (2) is applicable to the 1986 and subsequent taxation years.

(4) Le paragraphe (2) s'applique aux années d'imposition 1986 et suivantes.

6. (1) Paragraph 37(1)(a) of the said Act is amended by striking out the word "or" at the end of subparagraph (iv) thereof, by adding the word "or" at the end of subparagraph (v) thereof and by adding thereto the following subparagraph:

6. (1) L'alinéa 37(1)a) de la même loi est modifié par suppression du mot «ou» à la fin du sous-alinéa (iv) et par adjonction de ce qui suit :

“(vi) by payments to an approved organization that makes payments to an association, institution or corporation described in any of subparagraphs (ii) to (iv) to be used for scientific research and experimental development related to the class of business of the taxpayer, where the taxpayer is entitled to exploit the results of such scientific research and experimental development;”

«(vi) sous forme de paiements à un organisme agréé qui verse des fonds à une association, un établissement ou une corporation visés aux sous-alinéas (ii) à (iv), pour servir à des recherches scientifiques et du développement expérimental qui se rapportent à la catégorie d'entreprise du contribuable, lequel est par ailleurs en droit d'en utiliser les résultats;»

(2) Subsection (1) is applicable with respect to payments made after February 25, 1986.

(2) Le paragraphe (1) s'applique aux fonds versés après le 25 février 1986.

7. (1) The description of "A" in paragraph 47.1(28)(a) of the said Act is repealed and the following substituted therefor:

7. (1) Le passage de l'alinéa 47.1(28)a) de la même loi qui indique ce que la lettre A représente est abrogé et remplacé par ce qui suit :

“A is the indexing base of the Plan on that date determined as if subparagraph

«A représente la base d'indexation du Régime à cette date, calculée en rempla-

(3)(a)(i) were read as "the fair market value of all indexed securities owned by the taxpayer under the Plan at the end of the preceding taxation year" "

çant le texte du sous-alinéa (3)a)(i) par le texte «de la juste valeur marchande de tous les titres indexés appartenant au contribuable dans le cadre du Régime à la fin de l'année d'imposition précédente»;

(2) Subsection (1) is applicable after 1985.

(2) Le paragraphe (1) s'applique après 1985.

8. (1) Subparagraph 53(2)(c)(i) of the said Act is amended by adding thereto, immediately after clause (C) thereof, the following:

8. (1) Le sous-alinéa 53(2)c)(i) de la même loi est modifié par adjonction de ce qui suit :

"except to the extent that all or a portion of such a loss may reasonably be considered to have been included in the taxpayer's limited partnership loss in respect of the partnership for his taxation year in which that fiscal period ended,"

«sauf dans la mesure où il est raisonnable de considérer que tout ou partie de cette perte est incluse dans la perte comme commanditaire ou assimilé du contribuable dans la société pour l'année d'imposition du contribuable au cours de laquelle cet exercice financier se termine,»

(2) Paragraph 53(2)(c) of the said Act is further amended by adding thereto, immediately after subparagraph (i) thereof, the following subparagraph:

(2) L'alinéa 53(2)c) de la même loi est modifié par insertion, après le sous-alinéa (i), de ce qui suit :

"(i.1) an amount in respect of each fiscal period of the partnership ending before that time that is the taxpayer's limited partnership loss in respect of the partnership for the taxation year in which that fiscal period ends to the extent that such loss was deducted by the taxpayer in computing his taxable income for any taxation year that commenced before that time,"

«(i.1) la somme relative à chaque exercice financier de la société se terminant avant cette date, qui est la perte comme commanditaire ou assimilé du contribuable dans la société pour l'année d'imposition au cours de laquelle cet exercice financier se termine, dans la mesure où le contribuable a déduit cette perte dans le calcul de son revenu imposable pour une année d'imposition qui a commencé avant cette date,»

(3) Subsections (1) and (2) are applicable after February 25, 1986.

(3) Les paragraphes (1) et (2) s'appliquent après le 25 février 1986.

9. (1) Subsection 56(1) of the said Act is amended by striking out the word "and" at the end of paragraph (u) thereof, by adding the word "and" at the end of paragraph (v) thereof and by adding thereto the following paragraph:

9. (1) Le paragraphe 56(1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa u) et par adjonction de ce qui suit :

"(w) the aggregate of all amounts each of which is an amount received by the taxpayer as a benefit (other than an amount received by or from a trust gov-

«w) le total des montants dont chacun représente un montant reçu par le contribuable comme avantage — à l'exclusion des montants reçus par une fiducie

Salary deferral
arrangement

Entente
d'échelonne-
ment du
traitement

erned by a salary deferral arrangement) in the year out of or under a salary deferral arrangement in respect of a person other than the taxpayer except to the extent that the amount, or another amount that may reasonably be considered to relate thereto, has been included in computing the income of that other person for the year or for any preceding taxation year.”

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(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

10. (1) Paragraph 60(1) of the said Act is repealed and the following substituted therefor:

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“(1) the aggregate of all amounts each of which is an amount paid by or on behalf of the taxpayer in the year or within 60 days after the end of the year

(i) as a premium under a registered retirement savings plan under which he is the annuitant,

(ii) to acquire, from a person licensed or otherwise authorized under the laws of Canada or a province to carry on in Canada an annuities business, an annuity under which he is the annuitant

(A) for his life, or for the lives jointly of the taxpayer and his spouse, either with a guaranteed period that is not greater than 90 years minus his age, or the age of his spouse, at the time of its acquisition or without a guaranteed period, or

(B) for a term of years equal to 90 minus his age, or the age of his spouse, at the time of its acquisition that does not provide for any payment thereunder except

(C) the single payment by the taxpayer,

(D) equal annual or more frequent periodic payments commencing not later than one year after the date of the payment referred to in clause (C), and

régissant une entente d'échelonnement du traitement et des montants reçus d'une telle fiducie — au cours de l'année dans le cadre d'une entente d'échelonnement du traitement applicable à une autre personne que le contribuable, sauf dans la mesure où ce montant ou un autre montant qu'il est raisonnable de considérer comme lié à celui-ci est ajouté dans le calcul du revenu de cette autre personne pour l'année ou pour une année d'imposition antérieure.»

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(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

10. (1) L'alinéa 60(1) de la même loi est abrogé et remplacé par ce qui suit :

«(1) le total des montants dont chacun représente un montant versé par le contribuable ou pour son compte, dans l'année ou dans les 60 jours suivant la fin de 20 l'année,

(i) à titre de prime en vertu d'un régime enregistré d'épargne-retraite dont le contribuable est rentier,

(ii) afin d'acheter, d'une personne titulaire d'une licence ou par ailleurs autorisée par la législation fédérale ou provinciale à exploiter un commerce de rentes au Canada,

(A) une rente viagère simple ou 30 réversible au conjoint survivant, dont le contribuable devient rentier, sans durée garantie ou pour une durée garantie égale ou inférieure à la différence entre 90 et l'âge du contribuable ou de son conjoint à la date d'achat de la rente, ou

(B) une rente à terme dont le contribuable devient rentier, pour un nombre d'années égal à la différence entre 90 et l'âge du contribuable ou de son conjoint à la date d'achat de la rente,

cette rente ne devant pas prévoir d'autres versements que les suivants :

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(C) le paiement unique à effectuer par le contribuable,

(D) des versements égaux à effectuer périodiquement à intervalles

Transfer of
refund of
premium under
R.R.S.P.

Transfert de
REER

(E) payments in full or partial commutation of the annuity and, where the commutation is partial, equal annual or more frequent periodic payments thereafter, 5

or

(iii) to a carrier as consideration for a registered retirement income fund under which the taxpayer is the annuitant 10

where such aggregate

(iv) is designated by the taxpayer in his return of income under this Part for the year,

(v) does not exceed the aggregate of 15

(A) the amount included in computing his income for the year as a refund of premiums out of or under a registered retirement savings plan under which the taxpayer's spouse 20 was the annuitant, and

(B) the amount included in computing his income for the year as a refund of premiums out of or under a registered retirement savings plan 25 where the taxpayer was dependent by reason of physical or mental infirmity on the annuitant under the plan,

and, where the amount is paid by a 30 direct transfer from the issuer of a registered retirement savings plan or a carrier of a registered retirement income fund,

(C) the amount included in computing his income for the year as a consequence of a payment described in subparagraph 146(2)(b)(ii), and 35

(D) the portion of the amount 40 received by him out of or under a registered retirement income fund and included in computing his income for the year by virtue of subsection 146.3(5) that exceeds 45 the minimum amount (within the meaning assigned by paragraph 146.3(1)(b.1)) required to be paid to the annuitant in the year under that fund, and 50

ne dépassant pas un an, au plus tard une année après la date du paiement unique, et

(E) des versements découlant de la conversion totale ou partielle de la 5 rente et, par la suite, en cas de conversion partielle, des versements égaux à effectuer périodiquement à intervalles ne dépassant pas un an, ou 10

(iii) en contrepartie d'un fonds enregistré de revenu de retraite dont le contribuable est rentier, à l'émetteur de ce fonds,

lorsque ce total : 15

(iv) est indiqué par le contribuable dans sa déclaration de revenu pour l'année en vertu de la présente partie,

(v) ne dépasse pas le total des 20 sommes suivantes :

(A) la somme ajoutée dans le calcul de son revenu pour l'année à titre de remboursement de primes provenant d'un régime enregistré d'épargne-retraite dont le conjoint du 25 contribuable était rentier,

(B) la somme ajoutée dans le calcul de son revenu pour l'année à titre de remboursement de primes provenant d'un régime enregistré d'épar- 30 gne-retraite dans le cas où le contribuable était à la charge du rentier du régime en raison d'une infirmité mentale ou physique,

et, si le montant est versé par trans- 35 fert direct de l'émetteur d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite,

(C) la somme ajoutée dans le calcul de son revenu pour l'année en 40 raison d'un versement visé au sous-alinéa 146(2)b)(ii),

(D) l'excédent du montant que le contribuable a retiré d'un fonds enregistré de revenu de retraite et 45 qui est ajouté dans le calcul de son revenu pour l'année en vertu du paragraphe 146.3(5), sur le minimum, au sens de l'alinéa 146.3(1)b.1), à retirer du fonds et 50 payable au rentier pour l'année, et

Cdn. expl. exp.
to flow-through
shareholder

(vi) was not deducted in computing his income for a preceding taxation year;"	(vi) n'a pas été déduit dans le calcul de son revenu pour une année d'imposition antérieure;»
(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.	(2) Le paragraphe (1) s'applique aux 5 années d'imposition 1986 et suivantes. 5
11. (1) Paragraph 66(10.1)(b) of the said Act is repealed and the following substituted therefor:	11. (1) L'alinéa 66(10.1)b) de la même loi est abrogé et remplacé par ce qui suit :
"(b) assistance that any person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that can reasonably be related to Canadian exploration activities of the joint exploration corporation 15 during the period;"	«b) un montant à titre d'aide qu'une personne a reçu, est en droit de recevoir ou devient, à une date quelconque, en droit de recevoir, concernant ces frais engagés au cours de la période, ou qui peut raisonnablement se rapporter à des activités d'exploration exercées par la corporation d'exploration en commun au 15 Canada au cours de la période;»
(2) Paragraph 66(10.2)(b) of the said Act is repealed and the following substituted therefor:	(2) L'alinéa 66(10.2)b) de la même loi est abrogé et remplacé par ce qui suit :
"(b) assistance that any person has 20 received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that can reasonably be related to Canadian development activities 25 of the joint exploration corporation during the period;"	«b) un montant à titre d'aide qu'une personne a reçu, est en droit de recevoir 20 ou devient, à une date quelconque, en droit de recevoir, concernant ces frais engagés au cours de la période, ou qui peut raisonnablement se rapporter à des activités d'aménagement exercées par la 25 corporation d'exploration en commun au Canada au cours de la période;»
(3) Paragraph 66(10.3)(b) of the said Act is repealed and the following substituted therefor: 30	(3) L'alinéa 66(10.3)b) de la même loi est abrogé et remplacé par ce qui suit :
"(b) assistance that any person has received, is entitled to receive or, at any time, becomes entitled to receive in respect of such expenses incurred during the period or that can reasonably be 35 related to such expenses during the period;"	«b) un montant à titre d'aide qu'une 30 personne a reçu, est en droit de recevoir ou devient, à une date quelconque, en droit de recevoir, concernant ces frais engagés au cours de la période, ou qui peut raisonnablement s'y rapporter au 35 cours de la période;»
(4) Section 66 of the said Act is further amended by adding thereto, immediately after subsection (12.5) thereof, the following 40 subsections:	(4) L'article 66 de la même loi est modifié par insertion, après le paragraphe (12.5), de ce qui suit :
"(12.6) Where a person has given consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period 45 commencing on the day the agreement was	«(12.6) Dès lors que, conformément à 40 Renonciation à des frais d'exploration en faveur de l'actionnaire une convention, une personne paye une action accréditive à la corporation qui la lui émet et que la corporation engage des frais d'exploration au Canada au cours de

entered into and ending 24 months after the end of the month that included that day, the corporation has incurred Canadian exploration expenses, the corporation may, after it has complied with subsection (12.68) in respect of the share and within that period or within 30 days thereafter, renounce, effective on the date on which the renunciation is made or on such earlier date as may be set out in the form prescribed for the purposes of subsection (12.7), to the person in respect of the share the amount, if any, by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

(a) the assistance that it has received, is entitled to receive, or may reasonably be expected to receive at any time, and that may reasonably be related to those expenses or to Canadian exploration activities to which those expenses relate (other than assistance that may reasonably be attributable to expenses referred to in paragraph (b)),

(b) any of those expenses that are prescribed Canadian exploration and development overhead expenses of the corporation, and

(c) the aggregate of amounts that are renounced on or before the date on which the renunciation is made by any other renunciation under this subsection in respect of those expenses, but not in any case

(d) exceeding the amount, if any, by which the consideration for the share exceeds the aggregate of other amounts renounced in respect of the share under this subsection or subsection (12.62) or (12.64) on or before the effective date of the renunciation, or

(e) exceeding the amount, if any, by which the cumulative Canadian exploration expense of the corporation on the effective date of the renunciation exceeds the aggregate of all amounts renounced on or before the date on which the renunciation is made in

la période commençant à la date de conclusion de la convention et se terminant 24 mois après la fin du mois qui comprend cette date, la corporation peut, en ce qui concerne cette action, après s'être conformée au paragraphe (12.68), renoncer en faveur de cette personne, dans cette période ou dans les 30 jours suivants, à l'excédent éventuel de ces frais, engagés au cours de la période et au plus tard à la date où la renonciation prend effet — à savoir le premier en date du jour où la renonciation est faite ou du jour de prise d'effet précisé sur le formulaire requis par le paragraphe (12.7) —, sur le total des montants suivants :

a) tout montant à titre d'aide que la corporation a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir à une date quelconque et qu'il est raisonnable de rattacher à ces frais ou à des activités d'exploration au Canada s'y rapportant — à l'exclusion des montants à titre d'aide raisonnablement attribuables à la partie des frais visée à l'alinéa b) —;

b) la partie de ces frais qui correspond aux frais généraux d'exploration et d'aménagement au Canada de la corporation visés par règlement;

c) les montants au titre de ces frais auxquels, au plus tard le jour où la renonciation est faite, il est par ailleurs renoncé en vertu du présent paragraphe.

Cet excédent ne peut toutefois ni dépasser l'excédent éventuel du montant payé pour l'action sur le total des autres montants concernant l'action auxquels la corporation a renoncé en vertu du présent paragraphe et des paragraphes (12.62) et (12.64) au plus tard à la date où la renonciation prend effet, ni dépasser l'excédent éventuel du montant des frais cumulatifs d'exploration au Canada de la corporation à cette même date sur le total des montants, au titre des frais engagés, auxquels, au plus tard le jour où la renonciation est faite, il est renoncé en vertu du présent paragraphe en ce qui concerne d'autres actions.

Effect of
renunciation

respect of any other share under this subsection in respect of those expenses.

(12.61) Where a corporation renounces an amount to a person under subsection (12.6),

(a) the amount so renounced shall be deemed to be Canadian exploration expenses incurred by the person on the effective date of the renunciation; and

(b) the Canadian exploration expenses to which the amount relates shall, except for the purpose of that renunciation, be deemed on and after the effective date of the renunciation never to have been Canadian exploration expenses incurred by the corporation.

Cdn. dev. exp.
to flow-through
shareholder

(12.62) Where a person has given consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period commencing on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation has incurred Canadian development expenses, the corporation may, after it has complied with subsection (12.68) in respect of the share and within that period or within 30 days thereafter, renounce, effective on the date on which the renunciation is made or on such earlier date as may be set out in the form prescribed for the purposes of subsection (12.7), to the person in respect of the share the amount, if any, by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

(a) the assistance that it has received, is entitled to receive, or may reasonably be expected to receive at any time, and that may reasonably be related to those expenses or to Canadian development activities to which those expenses relate (other than assistance that may reasonably be attributable to expenses referred to in paragraph (b)),

(b) any of those expenses that are prescribed Canadian exploration and development overhead expenses of the corporation, and

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(12.61) Dans le cas où une corporation renonce à un montant en faveur d'une personne en vertu du paragraphe (12.6) :

a) d'une part, ce montant est réputé être des frais d'exploration au Canada engagés par cette personne à la date où la renonciation prend effet;

b) d'autre part, les frais d'exploration au Canada auxquels ce montant se rapporte sont réputés, à compter de la date où la renonciation prend effet, n'avoir jamais été engagés par la corporation.

Effet de la
renonciation

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Renonciation à
des frais
d'aménagement
en faveur de
l'actionnaire

(12.62) Dès lors que, conformément à une convention, une personne paye une action accréditive à la corporation qui lui émet et que la corporation engage des frais d'aménagement au Canada au cours de la période commençant à la date de conclusion de la convention et se terminant 24 mois après la fin du mois qui comprend cette date, la corporation peut, en ce qui concerne cette action, après s'être conformée au paragraphe (12.68), renoncer en faveur de cette personne, dans cette période ou dans les 30 jours suivants, à l'excédent éventuel de ces frais, engagés au cours de la période et au plus tard à la date où la renonciation prend effet — à savoir le premier en date du jour où la renonciation est faite ou du jour de prise d'effet précisé sur le formulaire requis par le paragraphe (12.7) —, sur le total des montants suivants :

a) tout montant à titre d'aide que la corporation a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir à une date quelconque et qu'il est raisonnable de rattacher à ces frais ou à des activités d'aménagement au Canada s'y rapportant — à l'exclusion des montants à titre d'aide raisonnablement attribuables à la partie des frais visée à l'alinéa b) —;

b) la partie de ces frais qui correspond aux frais généraux d'exploration et 45

(c) the aggregate of amounts that are renounced on or before the date on which the renunciation is made by any other renunciation under this subsection in respect of those expenses, 5
but not in any case

(d) exceeding the amount, if any, by which the consideration for the share exceeds the aggregate of other amounts renounced in respect of the share under 10
this subsection or subsection (12.6) or (12.64) on or before the effective date of the renunciation, or

(e) exceeding the amount, if any, by which the cumulative Canadian develop- 15
ment expense of the corporation on the effective date of the renunciation exceeds the aggregate of all amounts renounced on or before the date on 20
which the renunciation is made in respect of any other share under this subsection in respect of those expenses.

Effect of
renunciation

(12.63) Where a corporation renounces an amount to a person under subsection (12.62), 25

(a) the amount so renounced shall be deemed to be Canadian development expenses incurred by the person on the effective date of the renunciation; and

(b) the Canadian development expenses 30
to which the amount relates shall, except for the purposes of that renunciation, be deemed on and after the effective date of the renunciation never to have been Canadian development 35
expenses incurred by the corporation.

Cdn. oil and
gas prop. exp.
to flow-through
shareholder

(12.64) Where a person has given consideration under an agreement to a corporation for the issue of a flow-through share of the corporation and, during the period 40
commencing on the day the agreement was entered into and ending 24 months after the end of the month that included that day, the corporation has incurred Canadian oil and gas property expenses, the cor- 45
poration may, after it has complied with subsection (12.68) in respect of the share

d'aménagement au Canada de la corporation visés par règlement;

c) les montants au titre de ces frais auxquels, au plus tard le jour où la renonciation est faite, il est par ailleurs 5
renoncé en vertu du présent paragraphe.

Cet excédent ne peut toutefois ni dépasser l'excédent éventuel du montant payé pour l'action sur le total des autres montants concernant l'action auxquels la corpora- 10
tion a renoncé en vertu du présent paragraphe et des paragraphes (12.6) et (12.64) au plus tard à la date où la renonciation prend effet, ni dépasser l'excédent 15
éventuel du montant des frais cumulatifs d'aménagement au Canada de la corporation à cette même date sur le total des montants, au titre des frais engagés, aux- 20
quels, au plus tard le jour où la renonciation est faite, il est renoncé en vertu de présent paragraphe en ce qui concerne d'autres actions.

(12.63) Dans le cas où une corporation 25
renonce à un montant en faveur d'une personne en vertu du paragraphe (12.62) :

a) d'une part, ce montant est réputé être des frais d'aménagement au Canada engagés par cette personne à la 30
date où la renonciation prend effet;

b) d'autre part, les frais d'amé-
nement au Canada auxquels ce montant se rapporte sont réputés, à compter de la date où la renonciation prend effet, 35
n'avoir jamais été engagés par la corporation.

(12.64) Dès lors que, conformément à une convention, une personne paye une action accréditive à la corporation qui la 40
lui émet et que la corporation engage des frais à l'égard de biens canadiens relatifs au pétrole et au gaz au cours de la période commençant à la date de conclusion de la convention et se terminant 24 mois après 45
la fin du mois qui comprend cette date, la corporation peut, en ce qui concerne cette action, après s'être conformée au paragra-

Renonciation à
des frais à
l'égard de biens
canadiens
relatifs au
pétrole et au
gaz en faveur
de l'actionnaire

and within that period or within 30 days thereafter, renounce, effective on the date on which the renunciation is made or on such earlier date as may be set out in the form prescribed for the purposes of subsection (12.7), to the person in respect of the share the amount, if any, by which those expenses incurred by it during that period and on or before the effective date of the renunciation exceed the aggregate of

(a) the assistance that it has received, is entitled to receive, or may reasonably be expected to receive at any time, and that may reasonably be related to those expenses, and

(b) the aggregate of amounts that are renounced on or before the date on which the renunciation is made by any other renunciation under this subsection in respect of those expenses,

but not in any case

(c) exceeding the amount, if any, by which the consideration for the share exceeds the aggregate of other amounts renounced in respect of the share under this subsection or subsection (12.6) or (12.62) on or before the effective date of the renunciation, or

(d) exceeding the amount, if any, by which the cumulative Canadian oil and gas property expense of the corporation on the effective date of the renunciation exceeds the aggregate of all amounts renounced on or before the date on which the renunciation is made in respect of any other share under this subsection in respect of those expenses.

(12.65) Where a corporation renounces an amount to a person under subsection (12.64),

(a) the amount so renounced shall be deemed to be Canadian oil and gas property expenses incurred by the person on the effective date of the renunciation; and

(b) the Canadian oil and gas property expense to which the amount relates shall, except for the purposes of that renunciation, be deemed on and after

phe (12.68), renoncer en faveur de cette personne, dans cette période ou dans les 30 jours suivants, à l'excédent éventuel de ces frais, engagés au cours de la période et au plus tard à la date où la renonciation prend effet — à savoir le premier en date du jour où la renonciation est faite ou du jour de prise d'effet précisé sur le formulaire requis par le paragraphe (12.7) —, sur le total des montants suivants :

a) tout montant à titre d'aide que la corporation a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir à une date quelconque et qu'il est raisonnable de rattacher à ces frais;

b) les montants au titre de ces frais auxquels, au plus tard le jour où la renonciation est faite, il est par ailleurs renoncé en vertu du présent paragraphe.

Cet excédent ne peut toutefois ni dépasser l'excédent éventuel du montant payé pour l'action sur le total des autres montants concernant l'action auxquels la corporation a renoncé en vertu du présent paragraphe et des paragraphes (12.6) et (12.62) au plus tard à la date où la renonciation prend effet, ni dépasser l'excédent éventuel du montant des frais cumulatifs à l'égard de biens canadiens relatifs au pétrole et au gaz de la corporation à cette même date sur le total des montants, au titre des frais engagés, auxquels, au plus tard le jour où la renonciation est faite, il est renoncé en vertu du présent paragraphe en ce qui concerne d'autres actions.

(12.65) Dans le cas où une corporation renonce à un montant en faveur d'une personne en vertu du paragraphe (12.64) :

a) d'une part, ce montant est réputé être des frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés par cette personne à la date où la renonciation prend effet;

b) d'autre part, les frais à l'égard de biens canadiens relatifs au pétrole et au gaz auxquels ce montant se rapporte sont réputés, à compter de la date où la

the effective date of the renunciation never to have been Canadian oil and gas property expenses incurred by the corporation.

(12.66) Where

(a) a corporation that issues a flow-through share to a person under an agreement incurs, within 60 days after the end of a calendar year, Canadian exploration expenses,

(b) the Canadian exploration expenses are expenses described in subparagraph 66.1(6)(a)(iii) incurred in respect of a mineral resource other than a bituminous sands deposit, an oil sands deposit or an oil shale deposit,

(c) before the end of the year, the agreement was entered into between the corporation and the person and the person paid the consideration for the share in money,

(d) the corporation and the person deal with each other at arm's length throughout the 60 days, and

(e) within 90 days after the end of the year the corporation renounces an amount in respect of the Canadian exploration expenses to the person in respect of the share in accordance with subsection (12.6) and the effective date of the renunciation is the last day of the year,

the corporation shall for purposes of subsection (12.6) be deemed to have incurred the expenses on the effective date of the renunciation.

(12.67) A corporation shall not renounce under any of subsections (12.6), (12.62) and (12.64) any expenses that are deemed to have been incurred by it by virtue of a renunciation under this section by another corporation that is not related to it.

(12.68) A corporation that agrees to issue or prepares a selling instrument in respect of flow-through shares shall file with the Minister a prescribed form together with a copy of the selling instrument or agreement to issue the shares on

renonciation prend effet, n'avoir jamais été engagés par la corporation.

(12.66) Pour l'application du paragraphe (12.6), la corporation qui émet une action accréditive à une personne conformément à une convention est réputée avoir engagé des frais d'exploration au Canada à la date où la renonciation prend effet si les conditions suivantes sont réunies :

a) la corporation engage les frais d'exploration au Canada dans les 60 jours suivant la fin d'une année civile;

b) ces frais sont des dépenses visées au sous-alinéa 66.1(6)a)(iii), concernant une ressource minérale qui n'est ni un gisement de sables bitumineux, ni un gisement de sables pétrolifères, ni un gisement de schiste bitumineux;

c) la convention est conclue entre la corporation et la personne avant la fin de l'année et la personne paye l'action en argent avant la fin de l'année;

d) la corporation et la personne n'ont entre elles aucun lien de dépendance tout au long des 60 jours en question;

e) la corporation renonce à un montant au titre de ces frais, en ce qui concerne l'action, en faveur de la personne, conformément au paragraphe (12.6), dans les 90 jours suivant la fin de l'année et la renonciation prend effet le dernier jour de l'année.

(12.67) Une corporation ne peut renoncer, en vertu des paragraphes (12.6), (12.62) et (12.64), aux frais qu'elle est réputée avoir engagés à cause d'une renonciation en sa faveur en vertu du présent article par une autre corporation qui ne lui est pas liée.

(12.68) La corporation qui s'oblige par convention à émettre des actions accréditives ou propose d'en émettre par avis d'émission doit produire au ministre un formulaire réglementaire auquel copie de la convention ou de l'avis doit être jointe,

Frais engagés dans les 60 premiers jours de l'année

Restriction

Formulaire sur l'avis ou la convention

Expenses in the first 60 days of year

Restriction on renunciation

Filing selling instruments

Filing re
partners

Filing

Restriction on
renunciation

Application of
sections 231 to
231.3

or before the last day of the month following the earlier of

(a) the month in which the agreement to issue the shares is entered into, and

(b) the month in which the selling instrument is first delivered to a potential investor,

and the Minister shall thereupon assign an identification number to the form and notify the corporation of the number.

(12.69) Where, as a consequence of a renunciation of an amount under subsection (12.6), (12.62) or (12.64), an expense is incurred by a partnership in a fiscal period thereof, the partnership shall, on or before the last day of the third month following the end of that period, file with the Minister an information return in prescribed form indicating the share of the expense attributable to each member of the partnership at the end of that period.

(12.7) Where a corporation renounces an amount in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses under subsection (12.6), (12.62) or (12.64), the corporation shall file a prescribed form in respect of the renunciation with the Minister on or before the last day of the month following the month in which the renunciation was made.

(12.71) A corporation may renounce an amount under subsection (12.6), (12.62) or (12.64) in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by it only to the extent that, but for the renunciation, it would be entitled to claim a deduction in respect of the expenses in computing its income for the purposes of this Part.

(12.72) Without restricting the generality of sections 231 to 231.3, where a corporation has renounced any amount under subsection (12.6), (12.62) or (12.64), notwithstanding that a return of income has not been filed by any taxpayer under sec-

au plus tard le dernier jour du mois suivant le premier :

a) du mois au cours duquel la convention est conclue; ou

b) du mois au cours duquel l'avis est en premier remis à un investisseur éventuel.

Le ministre doit alors attribuer au formulaire un numéro dont il informe la corporation.

(12.69) La société qui engage des frais dans un exercice financier à cause d'une renonciation en vertu du paragraphe (12.6), (12.62) ou (12.64) doit, au plus tard le dernier jour du troisième mois suivant la fin de l'exercice, produire au ministre une déclaration de renseignements, sur formulaire réglementaire, dans laquelle est indiquée la part de ces frais attribuable à chaque associé à la fin de l'exercice.

(12.7) La corporation qui renonce à un montant au titre de frais d'exploration au Canada, de frais d'aménagement au Canada ou de frais à l'égard de biens canadiens relatifs au pétrole et au gaz, en vertu du paragraphe (12.6), (12.62) ou (12.64), doit le faire par production au ministre d'un formulaire réglementaire, au plus tard le dernier jour du mois suivant le mois où la renonciation est faite.

(12.71) Une corporation ne peut renoncer, en vertu du paragraphe (12.6), (12.62) ou (12.64), à un montant au titre des frais d'exploration au Canada, des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, qu'elle a engagés, que dans la mesure où, sans renonciation, elle aurait le droit de demander une déduction à l'égard de ces frais dans le calcul de son revenu pour l'application de la présente partie.

(12.72) Sans que soit limitée leur portée générale, les articles 231 à 231.3 s'appliquent, avec les adaptations nécessaires, dans le cas où une corporation a renoncé à un montant en vertu du paragraphe (12.6), (12.62) ou (12.64) — même si une déclara-

Déclaration de renseignements sur la part des associés

Formulaire de renonciation

Frais raisonnables

Enquêtes et perquisitions

tion 150 for the taxation year of the taxpayer in which the amount so renounced is deemed to be Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses incurred by the taxpayer or a partnership of which the taxpayer is a member, sections 231 to 231.3 apply, with such modifications as the circumstances require, for the purpose of permitting the Minister to verify or ascertain the Canadian exploration expenses, Canadian development expenses, or Canadian oil and gas property expenses of the corporation in respect of which the amount was renounced, the amounts renounced in respect of those expenses, and any information in respect of the expenses or the amounts renounced.

Adjustment in
renunciation

(12.73) Where the aggregate of all amounts that a corporation purported to renounce to persons under subsection (12.6), (12.62) or (12.64) in respect of expenses incurred by it in any period ending on the effective date of the purported renunciation exceeds the total amount of such expenses in respect of which it may renounce amounts under that subsection, it shall reduce the amounts so renounced to one or more of those persons to effect a reduction in the aggregate of the amounts so purported to be renounced by the amount of the excess and file a statement with the Minister indicating the adjustments made in the renunciations and if the corporation has failed to so reduce the amounts and file such a statement with the Minister within 30 days after notice in writing by the Minister has been forwarded to the corporation that such a reduction is or will be required for the purposes of any assessment of tax under this Part, the Minister may, for the purposes of this section, reduce the amounts purported to be renounced by the corporation to one or more of those persons to effect a reduction in the aggregate of the amounts so purported to be renounced by the amount of

ration de revenu n'a pas été produite conformément à l'article 150 par le contribuable visé pour l'année d'imposition de celui-ci au cours de laquelle ce montant est réputé être des frais d'exploration au Canada, des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, engagés par ce contribuable ou par une société dont il est associé — afin que le ministre puisse vérifier ou contrôler :

- a) les frais d'exploration au Canada, les frais d'aménagement au Canada ou les frais à l'égard de biens canadiens relatifs au pétrole et au gaz, au titre desquels la corporation a renoncé à un montant;
- b) les montants auxquels elle a renoncé au titre de ces frais; et
- c) tous renseignements concernant ces frais ou ces montants.

(12.73) Dans le cas où le total des montants auxquels une corporation a censément renoncé en faveur de personnes en vertu des paragraphes (12.6), (12.62) ou (12.64) au titre des frais qu'elle a engagés au cours d'une période se terminant à la date où cette renonciation a pris effet dépasse le total des montants auxquels elle pouvait renoncer en vertu de ces paragraphes au titre de ces frais, la corporation doit appliquer cet excédent en réduction du total des montants auxquels elle a renoncé, après avoir réduit les montants auxquels elle a renoncé à l'égard d'une ou de plusieurs de ces personnes, et doit produire au ministre un état des corrections ainsi effectuées aux renonciations. Faute de telles réductions et faute de production de l'état dans les 30 jours suivant avis écrit du ministre envoyé à la corporation indiquant la nécessité de ces réductions pour établir une cotisation d'impôt en vertu de la présente partie, le ministre peut, pour l'application du présent article, effectuer ces réductions. Par dérogation aux paragraphes (12.61), (12.63) et (12.65), le montant auquel il est renoncé en faveur de chacune des personnes en question est réputé alors être le montant ainsi réduit,

Corrections

	the excess, and in any such case, notwithstanding subsections (12.61), (12.63) and (12.65), the amount renounced to each of the persons shall be deemed to be the amount as reduced by the corporation or the Minister, as the case may be.”	5	soit par la corporation, soit par le ministre.»	
	(5) Section 66 of the said Act is further amended by adding thereto, immediately after subsection (14.5) thereof, the following subsection:	10	(5) L'article 66 de la même loi est modifié par insertion, après le paragraphe (14.5), de ce qui suit :	5
Deduction of carved-out income	“(14.6) A taxpayer may deduct in computing his income under this Part for a taxation year, an amount equal to the aggregate of his carved-out incomes for the year within the meaning assigned by subsection 209(1).”	15	«(14.6) Dans le calcul de son revenu en vertu de la présente partie pour une année d'imposition, un contribuable peut déduire le total de ses revenus miniers et pétroliers, au sens du paragraphe 209(1), pour cette année.»	Deduction des revenus miniers et pétroliers
	(6) Subsection 66(15) of the said Act is amended by adding thereto, immediately after paragraph (a) thereof, the following paragraph:	20	(6) Le paragraphe 66(15) de la même loi est modifié par insertion, après l'alinéa a), de ce qui suit :	
“assistance” «montant à titre d'aide»	“(a.1) “assistance” means any amount, other than a prescribed amount, received or receivable at any time from a person or government, municipality or other public authority whether such amount is by way of a grant, subsidy, rebate, forgivable loan, deduction from royalty or tax, rebate of royalty or tax, investment allowance or any other form of assistance or benefit;”	25 30	«a.1) «montant à titre d'aide» s'entend de tout montant — à l'exclusion d'un montant prescrit — reçu ou à recevoir à une date quelconque, d'une personne ou d'un gouvernement, d'une municipalité ou d'un autre organisme public, sous forme de prime, subvention, remise, prêt à remboursement conditionnel, déduction de l'impôt, réduction de redevance ou allocation de placement ou sous toute autre forme d'aide ou d'avantage;»	15 20 25
	(7) Subsection 66(15) of the said Act is further amended by adding thereto, immediately after paragraph (d) thereof, the following paragraph:		(7) Le paragraphe 66(15) de la même loi est modifié par insertion, après l'alinéa d), de ce qui suit :	
“flow-through share” «action accréditive»	“(d.1) “flow-through share” means a share (other than a prescribed share) of the capital stock of a principal-business corporation that is issued to a person pursuant to an agreement in writing entered into between the person and the corporation after February 1986, under which the corporation agrees (i) to incur, during the period commencing on the day the agreement was entered into and ending 24 months after the end of the month that includes that day, Canadian exploration expenses, Canadian de-	35 40	«d.1) «action accréditive» s'entend d'une action d'une corporation exploitant une entreprise principale — à l'exclusion d'une action visée par règlement — émise à une personne conformément à une convention écrite conclue après février 1986 entre cette personne et la corporation et par laquelle la corporation s'oblige : (i) d'une part, à engager, au cours de la période commençant à la date de conclusion de la convention et se terminant 24 mois après la fin du mois qui comprend cette date, des frais	30 35 40

development expenses or Canadian oil and gas property expenses in an amount not less than the consideration for which the share is to be issued, and 5

(ii) to renounce, within that period or within 30 days thereafter, in prescribed form to the person in respect of the share, an amount in respect of the Canadian exploration expenses, 10 Canadian development expenses or Canadian oil and gas property expenses so incurred by it not exceeding the consideration received by the corporation for the share, 15

and includes a right of a person to have such a share issued to him and any interest acquired in such a share by a person pursuant to such an agreement;"

(8) Subsection 66(15) of the said Act is 20 further amended by adding thereto, immediately after paragraph (h) thereof, the following paragraph:

"(h.1) "selling instrument" in respect of flow-through shares means a prospec- 25 tus, registration statement, offering memorandum, term sheet or other similar document that describes the terms of the offer (including the price and number of shares) pursuant to which a 30 corporation offers to issue flow-through shares;"

(9) Section 66 of the said Act is further amended by adding thereto the following subsections: 35

Partnerships

"(16) For the purposes of subsections (12.6) to (12.66), paragraphs (15)(a.1) and (d.1) and subsections 66.3(3) and (4), a partnership shall be deemed to be a person and its taxation year shall be 40 deemed to be its fiscal period.

Non-arm's length partnerships

(17) For the purpose of paragraph (12.66)(d), where an expense incurred during a period by a corporation that is, but for this subsection, deemed by subsec- 45 tion (12.61) to be incurred by a partnership is attributable directly or indirectly to a member of the partnership who does not deal with the corporation at arm's length,

d'exploration au Canada, des frais d'aménagement au Canada ou des frais à l'égard de biens canadiens relatifs au pétrole et au gaz, pour un montant total au moins égal au paie- 5 ment prévu pour l'action,

(ii) d'autre part, à renoncer en ce qui concerne l'action en faveur de cette personne, dans cette période ou dans les 30 jours suivants, sur formulaire 10 réglementaire, à un montant au titre des frais ainsi engagés qui ne dépasse pas le paiement reçu par la corporation pour l'action;

le droit d'une personne à l'émission 15 d'une telle action et tout droit dans une telle action acquis par une personne conformément à une telle convention sont assimilés à une action accréditive;"

(8) Le paragraphe 66(15) de la même loi 20 est modifié par insertion, après l'alinéa h), de ce qui suit :

"h.1) «avis d'émission» s'entend, lorsqu'il s'agit d'actions accréditives, d'un prospectus, d'une déclaration d'enregis- 25 trement, d'une notice d'offre, d'une offre de souscription ou d'un document analogue donnant les éléments d'une offre (notamment le prix et le nombre des actions), par lequel une corporation pro- 30 pose d'émettre des actions accréditives;"

«avis d'émission»
"selling instrument"

(9) L'article 66 de la même loi est modifié par adjonction de ce qui suit :

«(16) Pour l'application des paragraphes (12.6) à (12.66), des alinéas (15)a.1) 35 et d.1) et des paragraphes 66.3(3) et (4), une société est réputée être une personne et son année d'imposition est réputée correspondre à son exercice financier.

Sociétés

(17) Pour l'application de l'alinéa 40 (12.66)d), dans le cas où des frais engagés par une corporation au cours d'une période sont réputés l'être par une société en vertu du paragraphe (12.61) et sont attribuables, directement ou indirectement, à un 45 associé de celle-ci, lequel a un lien de dépendance avec la corporation, la société

Sociétés liées

the partnership and the corporation shall be deemed not to deal with each other at arm's length during the period."

et la corporation sont réputés avoir un lien de dépendance au cours de cette période.»

(10) Subsections (4), (6) and (8) are applicable with respect to expenses incurred after February, 1986, except that a prescribed form referred to in subsection 66(12.68), (12.69) or (12.7) of the said Act, as enacted by subsection (4), that is filed with the Minister of National Revenue on or before the day that is 90 days after the day this Act receives Royal Assent shall be deemed to have been filed with that Minister on or before the day on or before which it is required by the subsection to be so filed.

(10) Les paragraphes (4), (6) et (8) s'appliquent aux frais engagés après février 1986. Toutefois, le formulaire réglementaire visé au paragraphe 66(12.68), (12.69) ou (12.7) de la même loi, édicté par le paragraphe (4), qui est produit au ministre du Revenu national au plus tard le 90^e jour suivant la date de sanction de la présente loi est réputé produit au ministre le jour où au plus tard ce paragraphe prévoit qu'il doit l'être.

(11) Subsection (5) is applicable to the 1985 and subsequent taxation years.

(11) Le paragraphe (5) s'applique aux années d'imposition 1985 et suivantes.

(12) Subsection (7) is applicable with respect to

(12) Le paragraphe (7) s'applique :

(a) shares issued pursuant to an agreement entered into after 1986; and

a) aux actions accréditives émises conformément à une convention conclue après 1986;

(b) shares issued pursuant to an agreement entered into by a corporation after February, 1986 and before 1987 where the corporation elects in prescribed form, filed with the Minister of National Revenue with its return of income pursuant to section 150 of the said Act for the taxation year in respect of which the election is made, to have this subsection apply with respect to shares issued pursuant to the agreement, except that the prescribed form may be filed within 90 days after the day this Act receives Royal Assent.

b) aux actions accréditives émises conformément à une convention conclue par une corporation après février 1986 et avant 1987 si la corporation en fait le choix sur formulaire réglementaire produit au ministre du Revenu national, soit avec sa déclaration de revenu conformément à l'article 150 de la même loi pour l'année d'imposition visée par le choix, soit dans les 90 jours suivant la date de sanction de la présente loi.

(13) Subsection (9) is applicable with respect to fiscal periods ending after February, 1986.

(13) Le paragraphe (9) s'applique aux exercices financiers se terminant après février 1986.

12. (1) Paragraph 66.1(1)(a) of the said Act is repealed and the following substituted therefor:

40

12. (1) L'alinéa 66.1(1)a) de la même loi est abrogé et remplacé par ce qui suit :

"(a) the aggregate of all amounts referred to in subparagraphs (6)(b)(v) to (xi) that would be taken into account in computing his cumulative Canadian exploration expense at the end of the year"

«a) du total des montants visés aux sous-alinéas (6)b)(v) à (xi) qui seraient pris en compte dans le calcul de ses frais cumulatifs d'exploration au Canada à la fin de l'année»

(2) Paragraph 66.1(4)(a) of the said Act is repealed and the following substituted therefor:

“(a) the aggregate of
 (i) the cumulative Canadian exploration expense of the predecessor, determined at the time immediately after the properties were so acquired by the successor corporation, and
 (ii) all amounts required to be added under paragraph (10)(c) to the cumulative Canadian exploration expense of the predecessor in respect of the successor corporation at any time before the end of the year,

to the extent that it has not been deducted by the successor corporation in computing its income for a preceding taxation year and has not been deducted by the predecessor in computing his income for any taxation year or designated by the predecessor pursuant to subsection 66(14.1) for any taxation year, and”

(3) All that portion of subsection 66.1(4) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

“and, in respect of any expense included in the aggregate referred to in paragraph (a), no deduction may be made under this section by the predecessor in computing his income for a taxation year subsequent to his taxation year in which the property was acquired by the successor corporation.”

(4) Paragraph 66.1(5)(a) of the said Act is repealed and the following substituted therefor:

“(a) the aggregate of
 (i) the amount determined under paragraph (4)(a) for the first successor corporation at the time immediately after the property so acquired was acquired by the second successor corporation, and
 (ii) all amounts required to be added under paragraph (11)(b) to the cumulative Canadian exploration

(2) L'alinéa 66.1(4)a) de la même loi est abrogé et remplacé par ce qui suit :

«(a) le total
 (i) des frais cumulatifs d'exploration au Canada du prédécesseur, calculés immédiatement après que les avoirs ont été ainsi acquis par la corporation remplaçante, et
 (ii) des montants que l'alinéa (10)c) prévoit d'ajouter aux frais cumulatifs d'exploration au Canada du prédécesseur à l'égard de la corporation remplaçante à une date antérieure à la fin de l'année,

dans la mesure où ce total n'a pas été déduit par la corporation remplaçante dans le calcul de son revenu pour une année d'imposition antérieure, ni n'a été déduit par le prédécesseur dans le calcul de son revenu pour une année d'imposition ou désigné par le prédécesseur conformément au paragraphe 66(14.1) pour une année d'imposition;»

(3) Le passage du paragraphe 66.1(4) de la même loi qui suit l'alinéa b) est abrogé et remplacé par ce qui suit :

«de plus, dans le calcul de son revenu pour une année d'imposition postérieure à son année d'imposition au cours de laquelle les avoirs ont été acquis par la corporation remplaçante, le prédécesseur ne peut faire aucune déduction, en vertu du présent article, au titre d'une dépense comprise dans le total visé à l'alinéa a).»

(4) L'alinéa 66.1(5)a) de la même loi est abrogé et remplacé par ce qui suit :

«(a) le total
 (i) du total déterminé à l'alinéa (4)a) à l'égard de la première corporation remplaçante immédiatement après que les avoirs ainsi acquis l'ont été par la seconde corporation remplaçante, et
 (ii) des montants que l'alinéa (11)b) prévoit d'ajouter aux frais cumulatifs d'exploration au Canada de la pre-

expense of the first successor corporation in respect of the second successor at any time before the end of the year, to the extent that it has not been deducted by the second successor corporation in computing its income for a preceding taxation year and has not been deducted by the first successor corporation in computing its income for any taxation year; and”

mière corporation remplaçante à l'égard de la seconde corporation remplaçante à une date antérieure à la fin de l'année,

dans la mesure où ce total n'a pas été déduit par la seconde corporation remplaçante dans le calcul de son revenu pour une année d'imposition antérieure, ni n'a été déduit par la première corporation remplaçante dans le calcul de son revenu pour une année d'imposition;»

(5) All that portion of subsection 66.1(5) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

(5) Le passage du paragraphe 66.1(5) de la même loi qui suit l'alinéa b) est abrogé et remplacé par ce qui suit :

“and, in respect of any expense included in the aggregate referred to in paragraph (a), no deduction may be made under this section by the first successor corporation in computing its income for a taxation year subsequent to its taxation year in which the property was acquired by the second successor corporation.”

«de plus, dans le calcul de son revenu pour une année d'imposition postérieure à son année d'imposition au cours de laquelle les avoirs ont été acquis par la seconde corporation remplaçante, la première corporation remplaçante ne peut faire aucune déduction, en vertu du présent article, au titre d'une dépense comprise dans le total visé à l'alinéa a).»

(6) All that portion of paragraph 66.1(6)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

(6) Le passage de l'alinéa 66.1(6)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

“(a) “Canadian exploration expense” of a taxpayer means any expense incurred after May 6, 1974 that is”

«a) «frais d'exploration au Canada» d'un contribuable s'entend des dépenses suivantes engagées après le 6 mai 1974 :»

«frais d'exploration au Canada» “Canadian exploration expense”

(7) All that portion of subparagraph 66.1(6)(a)(ii) of the said Act preceding clause (A) thereof is repealed and the following substituted therefor:

(7) Le passage du sous-alinéa 66.1(6)a)(ii) de la même loi qui précède la division (A) est abrogé et remplacé par ce qui suit :

“(ii) any expense incurred before April, 1987 in drilling or completing an oil or gas well in Canada or in building a temporary access road to, or preparing a site in respect of, any such well,”

«(ii) une dépense d'une part engagée avant avril 1987 pour le forage ou l'achèvement d'un puits de pétrole ou de gaz au Canada, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour un tel puits, et d'autre part engagée par le contribuable»

(8) Subparagraphs 66.1(6)(a)(ii.1) and (ii.2) of the said Act are repealed and the following substituted therefor:

(8) Les sous-alinéas 66.1(6)a)(ii.1) et (ii.2) de la même loi sont abrogés et remplacés par ce qui suit :

“Canadian exploration expense” «frais d'exploration au Canada»

30

“(ii.1) any expense incurred by him after March, 1987 and in a taxation year of the taxpayer in drilling or completing an oil or gas well in Canada or in building a temporary access road to, or preparing a site in respect of, any such well if

(A) the well resulted in the discovery of a natural accumulation of petroleum or natural gas and the discovery occurred at any time before six months after the end of the year,

(B) the well is abandoned in the year or within six months after the end of the year without ever having produced otherwise than for specified purposes,

(C) the period of 24 months commencing on the day of completion of the drilling of the well ends in the year, the expense was incurred within that period and in the year and the well has not within that period produced otherwise than for specified purposes, or

(D) a certificate in prescribed form in respect of the well has been filed with the Minister on or before the day that is 60 days after the end of the calendar year in which the drilling of the well has commenced,

(ii.2) any expense deemed by subsection (9) to be a Canadian exploration expense incurred by him,”

«(ii.1) une dépense engagée par le contribuable après mars 1987 et dans une année d'imposition du contribuable, pour le forage ou l'achèvement d'un puits de pétrole ou de gaz au Canada, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour un tel puits, à condition, selon le cas,

(A) que le puits soit la cause de la découverte, à une date antérieure à la période de six mois suivant la fin de l'année, d'un gisement naturel de pétrole ou de gaz naturel,

(B) que le puits soit abandonné dans l'année ou dans les six mois suivant la fin de l'année sans avoir jamais produit de pétrole ou de gaz sinon à une fin admise,

(C) que le terme de la période de 24 mois commençant le jour d'achèvement du forage du puits tombe dans l'année, que la dépense soit engagée durant cette période et dans l'année et que le puits n'ait pas produit de pétrole ou de gaz durant cette période sinon à une fin admise,

(D) qu'une attestation concernant le puits, sur le formulaire réglementaire, soit produite au ministre au plus tard le 60^e jour suivant la fin de l'année civile au cours de laquelle le forage du puits a commencé,

(ii.2) une dépense réputée par le paragraphe (9) être des frais d'exploration au Canada engagés par le contribuable,»

(9) Subparagraph 66.1(6)(a)(v) of the said Act is repealed and the following substituted therefor:

“(v) any expense referred to in any of subparagraphs (i) to (iii.1) incurred by the taxpayer pursuant to an agreement in writing with a corporation, entered into before 1987, under which the taxpayer incurred the expense solely as consideration for shares, other than prescribed shares, of the capital stock of the corporation issued

(9) Le sous-alinéa 66.1(6)a)(v) de la même loi est abrogé et remplacé par ce qui suit :

«(v) une dépense visée à l'un des sous-alinéas (i) à (iii.1) et engagée par le contribuable conformément à une convention écrite conclue avec une corporation avant 1987 par laquelle le contribuable n'engage la dépense qu'en paiement d'actions de la corporation — à l'exclusion des actions visées par règlement — émises en sa

to him or any interest in such shares or right thereto,”

(10) All that portion of paragraph 66.1(6)(a) of the said Act following subparagraph (vii) thereof is repealed and the following substituted therefor:

“but any assistance that a taxpayer has received or is entitled to receive after May 25, 1976 in respect of or related to his Canadian exploration expense shall not reduce the amount of any of the expenses described in any of subparagraphs (i) to (v);”

(11) Subparagraph 66.1(6)(b)(ix) of the said Act is repealed and the following substituted therefor:

“(ix) any assistance that he has received or is entitled to receive in respect of any Canadian exploration expense incurred after 1980 or that can reasonably be related to Canadian exploration activities after 1980, to the extent that the assistance has not reduced his Canadian exploration expense by virtue of paragraph (9)(g),”

(12) Paragraph 66.1(6)(b) of the said Act is further amended by striking out the word “or” at the end of subparagraph (ix) thereof, by adding the word “or” at the end of subparagraph (x) thereof and by adding thereto the following subparagraph:

“(xi) that portion of the aggregate of all amounts deducted by the taxpayer under subsection 127(5) or (6) for the taxation year in which that time is included or any preceding taxation year, that may reasonably be attributed to a qualified Canadian exploration expenditure within the meaning assigned by subsection 127(9);”

(13) Subsection 66.1(6) of the said Act is further amended by adding thereto the following paragraphs:

“(c) “restricted expense” of a taxpayer means an expense
(i) incurred by him before April, 1987,

faveur ou de droits afférents à de telles actions,»

(10) Le passage de l’alinéa 66.1(6)a) de la même loi qui suit le sous-alinéa (vii) est abrogé et remplacé par ce qui suit :

«cependant, aucun montant à titre d’aide qu’un contribuable a reçu ou est en droit de recevoir après le 25 mai 1976 concernant des frais d’exploration au Canada ou s’y rapportant ne peut réduire une dépense visée à l’un des sous-alinéas (i) à (v);»

(11) Le sous-alinéa 66.1(6)b)(ix) de la même loi est abrogé et remplacé par ce qui suit :

«(ix) un montant à titre d’aide qu’il a reçu ou est en droit de recevoir concernant des frais d’exploration au Canada engagés après 1980, ou qui peut raisonnablement se rapporter à des activités d’exploration au Canada postérieures à 1980, dans la mesure où ce montant n’a pas réduit les frais d’exploration au Canada du contribuable à cause de l’alinéa (9)g),»

(12) L’alinéa 66.1(6)b) de la même loi est modifié par adjonction du mot «ou» à la fin du sous-alinéa (x) et par adjonction de ce qui suit :

«(xi) la partie du total des montants déduits par le contribuable selon les paragraphes 127(5) et (6) pour l’année d’imposition qui comprend cette date et pour toute année d’imposition antérieure, qu’il est raisonnable d’attribuer à une dépense admissible d’exploration au Canada au sens du paragraphe 127(9).»

(13) Le paragraphe 66.1(6) de la même loi est modifié par adjonction de ce qui suit :

«c) «frais spécifiés» s’entend des frais
(i) qu’un contribuable engage avant avril 1987,

“restricted expense”
«frais spécifiés»

«frais spécifiés»
“restricted expense”

(ii) that is deemed by paragraph 66(10.2)(c) to have been incurred by him, or included by him in the amount referred to in subparagraph 66.2(5)(a)(i) by virtue of paragraph 66(12.3)(b), to the extent that the expense was originally incurred before April 1987,

(iii) that was renounced by him under subsection 66(10.2) or (12.62),

(iv) in respect of which an amount referred to in subsection 66(12.3) becomes receivable by him,

(v) deemed to be a Canadian exploration expense of the taxpayer or any other taxpayer by virtue of subsection (9), or

(vi) where the taxpayer is a corporation, that was incurred by the corporation before the time control of the corporation was last acquired by a person or persons;

(d) "specified purpose" means

(i) the operation of an oil or gas well for the sole purpose of testing the well or the well head and related equipment, in accordance with generally accepted engineering practices,

(ii) the burning of natural gas and related hydrocarbons to protect the environment, and

(iii) prescribed purposes."

(14) Section 66.1 of the said Act is further amended by adding thereto the following subsections:

"(8) Where

(a) after December 31, 1985, a taxpayer incurs, within 60 days after the end of a calendar year, Canadian exploration expenses pursuant to an agreement referred to in subparagraph (6)(a)(v),

(b) the Canadian exploration expenses are expenses described in subparagraph (6)(a)(iii) incurred in respect of a mineral resource other than a bituminous sands deposit, an oil sands deposit or an oil shale deposit,

(c) the agreement was entered into between the taxpayer and the corporation on or before the last day of the year,

(ii) dans la mesure où ils sont initialement engagés avant avril 1987, que le contribuable est réputé par l'alinéa 66(10.2)c) engager ou qu'il ajoute au montant visé au sous-alinéa 66.2(5)a)(i) à cause de l'alinéa 66(12.3)b),

(iii) auxquels le contribuable renonce en vertu du paragraphe 66(10.2) ou (12.62),

(iv) pour lesquels un montant visé au paragraphe 66(12.3) devient à recevoir par le contribuable,

(v) qui sont réputés par le paragraphe (9) être des frais d'exploration au Canada du contribuable ou d'un autre contribuable, ou

(vi) si le contribuable est une corporation, que celle-ci engage avant la dernière date où une ou plusieurs personnes en acquièrent le contrôle;

d) «fin admise» s'entend

(i) de l'utilisation d'un puits de pétrole ou de gaz uniquement dans le cadre d'essais du puits ou de la tête de puits et du matériel connexe, exécutés dans les règles de l'art de l'ingénierie,

(ii) de la combustion de gaz naturel ou d'hydrocarbures apparentés en vue de protéger l'environnement,

(iii) d'une fin prévue par règlement.»

«fin admise»
"specified
purpose"

(14) L'article 66.1 de la même loi est modifié par adjonction de ce qui suit :

«(8) Les frais d'exploration au Canada d'un contribuable sont réputés engagés immédiatement avant la fin de l'année et non pas dans l'année suivante si les conditions suivantes sont réunies :

a) ces frais sont engagés par le contribuable après le 31 décembre 1985, dans les 60 jours suivant la fin d'une année civile, conformément à une convention visée au sous-alinéa (6)a)(v);

b) ces frais sont des dépenses visées au sous-alinéa (6)a)(iii), concernant une ressource minérale qui n'est ni un gisement de sables bitumineux, ni un gise-

Frais engagés
dans les
premiers 60
jours de l'année

"specified
purpose"
«fin admise»

Expenses in
first 60 days of
year

35

50

35

45

Cdn. dev. exp. for preceding years	(d) the funds relating to the Canadian exploration expenses have on or before the last day of the year been advanced to an agent acting on behalf of the taxpayer for the purposes of paying the expenses, and 5	ment de sables pétrolifères, ni un gisement de schiste bitumineux;
	(e) the taxpayer and the corporation deal with each other at arm's length throughout the 60 days, 10	c) la convention est conclue entre le contribuable et la corporation au plus tard le dernier jour de l'année; 5
	the Canadian exploration expenses shall be deemed to have been incurred immediately before the end of the year and shall be deemed not to have been incurred in the subsequent year. 10	d) les fonds en vue de payer ces frais sont avancés au mandataire du contribuable au plus tard le dernier jour de l'année;
	(9) Where at any time in a taxpayer's taxation year 15	e) le contribuable et la corporation n'ont aucun lien de dépendance tout au long des 60 jours suivant la fin de l'année. 10
	(a) an oil or gas well resulted in the discovery of a natural accumulation of petroleum or natural gas, 20	(9) Lorsque, à une date quelconque d'une année d'imposition d'un contribuable, 15
	(b) the period of 24 months commencing on the day of completion of the drilling of an oil or gas well ends and the well has not, within that period, produced otherwise than for specified purposes, or 25	Frais d'aménagement au Canada d'années antérieures
	(c) an oil or gas well that has never produced, otherwise than for specified purposes, is abandoned, 30	a) un puits de pétrole ou de gaz est la cause de la découverte d'un gisement naturel de pétrole ou de gaz naturel, 20
	the amount, if any, by which the aggregate of 40	b) la période de 24 mois commençant le jour de l'achèvement du forage du puits prend fin et le puits n'a pas produit de pétrole ou de gaz durant cette période sinon à une fin admise, ou 25
	(d) all Canadian development expenses (other than restricted expenses) described in clause 66.2(5)(a)(i)(B) in respect of the well that are deemed by subsection 66(10.2) or (12.63) to have been incurred by him in the year or a preceding taxation year, 35	c) le puits est abandonné sans avoir jamais produit de pétrole ou de gaz sinon à une fin admise, 25
	(e) all Canadian development expenses (other than restricted expenses) described in clause 66.2(5)(a)(i)(B) in respect of the well that are required by paragraph 66(12.3)(b) to be included by him in the amount referred to in subparagraph 66.2(5)(a)(i) for the year or a preceding taxation year, and 45	est réputé, pour l'application de la présente loi, être des frais d'exploration au Canada visés au sous-alinéa (6)a)(ii.2) et engagés par le contribuable à cette date l'excédent éventuel du total 30
	(f) all Canadian development expenses (other than expenses referred to in paragraph (d) or (e) and restricted expenses) 45	d) des frais d'aménagement au Canada concernant le puits — à l'exclusion des frais spécifiés — visés à la division 66.2(5)a)(i)(B) et qui sont réputés par le paragraphe 66(10.2) ou (12.63) engagés par le contribuable dans l'année ou dans une année d'imposition antérieure, 40
		e) des frais d'aménagement au Canada concernant le puits — à l'exclusion des frais spécifiés — visés à la division 66.2(5)a)(i)(B) et que le contribuable doit inclure, en vertu de l'alinéa 66(12.3)b), dans le montant visé au sous-alinéa 66.2(5)a)(i) pour l'année ou pour une année d'imposition antérieure, et 45

described in clause 66.2(5)(a)(i)(B) incurred by him in respect of the well in a taxation year preceding the year, exceeds

(g) any assistance that he or a partnership of which he is a member has received or is entitled to receive in respect of the expenses referred to in any of paragraphs (d), (e) and (f), shall, for the purposes of this Act, be deemed to be a Canadian exploration expense referred to in subparagraph (6)(a)(ii.2) incurred by the taxpayer at that time.

Successor

(10) Where a corporation (in this subsection referred to as the "successor") acquires a Canadian resource property from another person (in this subsection referred to as the "predecessor"), subsection 66.2(3) applies in respect of the acquisition and the cumulative Canadian development expense of the predecessor determined under clause 66.2(3)(a)(i)(A) in respect of the successor includes a Canadian development expense incurred by the predecessor in respect of an oil or gas well that would, but for this subsection, be deemed by subsection (9) to be a Canadian exploration expense incurred by the predecessor at any time after the acquisition in respect of the well, the following rules apply:

(a) subsection (9) does not apply to the predecessor in respect of the expense;

(b) an amount equal to the lesser of
(i) the amount that would be deemed by subsection (9) to be a Canadian exploration expense of the predecessor at that time if that subsection applied in respect of the expense, and
(ii) the cumulative Canadian development expense of the predecessor as determined under subparagraph 66.2(3)(a)(i) in respect of the successor immediately before that time

shall be deducted at that time from the cumulative Canadian development expense of the predecessor in respect of

f) des frais d'aménagement au Canada concernant le puits — à l'exclusion des frais visés aux alinéas d) et e) et des frais spécifiés — visés à la division 66.2(5)a)(i)(B) et engagés par le contribuable dans une année d'imposition antérieure à l'année,

sur

g) tous montants à titre d'aide qu'il a reçus ou est en droit de recevoir ou qu'une société dont le contribuable est associé a reçus ou est en droit de recevoir, concernant les frais visés aux alinéas d) à f).

15

(10) Lorsqu'une corporation — appelée «corporation remplaçante» au présent paragraphe — acquiert un avoir minier canadien d'une autre personne — appelée «prédécesseur» au présent paragraphe —, que le paragraphe 66.2(3) s'applique à cette acquisition et que les frais cumulatifs d'aménagement au Canada du prédécesseur, calculés selon la division 66.2(3)a)(i)(A) à l'égard de la corporation remplaçante, comprennent des frais d'aménagement au Canada concernant un puits de pétrole ou de gaz engagés par le prédécesseur qui, sans le présent paragraphe, seraient réputés par le paragraphe (9) être des frais d'exploration au Canada concernant le puits engagés par le prédécesseur à une date postérieure à l'acquisition, les règles suivantes s'appliquent :

Corporation remplaçante

a) le paragraphe (9) ne s'applique pas au prédécesseur en ce qui concerne ces frais;

b) doit être déduit à cette date des frais cumulatifs d'aménagement au Canada du prédécesseur à l'égard de la corporation remplaçante pour l'application du sous-alinéa 66.2(3)a)(i) le moins élevé :

(i) du montant qui serait réputé par le paragraphe (9) être des frais d'exploration au Canada du prédécesseur à cette date si ce paragraphe s'appliquait en ce qui concerne ces frais,
(ii) des frais cumulatifs d'aménagement au Canada du prédécesseur, calculés selon le sous-alinéa 66.2(3)a)(i)

Second
successor

the successor for the purposes of sub-
paragraph 66.2(3)(a)(i); and
(c) the amount required by paragraph
(b) to be deducted shall be added at that
time to the cumulative Canadian
exploration expense of the predecessor
under subparagraph 66.1(4)(a)(ii) in
respect of the successor.

(11) Where a corporation (in this sub-
section referred to as the “second suc-
cessor”) acquires a Canadian resource prop-
erty from another corporation (in this
subsection referred to as the “first suc-
cessor”) that had acquired the property from
another person (in this subsection referred
to as the “predecessor”), subsection
66.2(4) applies in respect of the acquisi-
tion and the cumulative Canadian develop-
ment expense determined under clause
66.2(4)(a)(i)(A) in respect of the second
successor includes a Canadian develop-
ment expense incurred by the predecessor
in respect of an oil or gas well that would,
but for subsection (10), be deemed by
subsection (9) to be a Canadian explora-
tion expense incurred by the predecessor at
any time after the acquisition in respect of
the well, the following rules apply:

- (a) an amount equal to the lesser of
 - (i) the amount that would be deemed
by subsection (9) to be a Canadian
exploration expense of the predecessor
at that time if that subsection applied
in respect of the expense, and
 - (ii) the cumulative Canadian de-
velopment expense of the predecessor
as determined under subparagraph
66.2(4)(a)(i) in respect of the second
successor immediately before that
time

shall be deducted at that time from the
cumulative Canadian development
expense of the predecessor in respect of
the second successor for the purposes of
subparagraph 66.2(4)(a)(i); and

(b) the amount required by paragraph
(a) to be deducted shall be added at that
time to the cumulative Canadian
exploration expense under subparagraph

à l'égard de la corporation rempla-
çante immédiatement avant cette
date;

c) le montant à déduire selon l'alinéa b)
doit être ajouté à cette date aux frais
cumulatifs d'exploration au Canada du
prédécesseur visés au sous-alinéa
66.1(4)a)(ii) à l'égard de la corporation
remplaçante.

(11) Lorsqu'une corporation — appelée
«seconde corporation remplaçante» au pré-
sent paragraphe — acquiert un avoir
minier canadien d'une autre corporation
— appelée «première corporation rempla-
çante» au présent paragraphe — qui avait
elle-même acquis cet avoir d'une autre
personne — appelée «prédécesseur» au pré-
sent paragraphe —, que le paragraphe
66.2(4) s'applique à cette acquisition et
que les frais cumulatifs d'aménagement au
Canada, calculés selon la division
66.2(4)a)(i)(A) à l'égard de la seconde
corporation remplaçante, comprennent des
frais d'aménagement au Canada concer-
nant un puits de pétrole ou de gaz engagés
par le prédécesseur qui, sans le paragraphe
(10), seraient réputés par le paragraphe
(9) être des frais d'exploration au Canada
concernant le puits engagés par le prédé-
cesseur à une date postérieure à l'acqui-
sition, les règles suivantes s'appliquent :

- a) doit être déduit à cette date des frais
cumulatifs d'aménagement au Canada
du prédécesseur à l'égard de la seconde
corporation remplaçante pour l'applica-
tion du sous-alinéa 66.2(4)a)(i) le moins
élevé :
 - (i) du montant qui serait réputé par
le paragraphe (9) être des frais d'ex-
ploration au Canada du prédécesseur 40
à cette date si ce paragraphe s'appli-
quait en ce qui concerne ces frais,
 - (ii) des frais cumulatifs d'aména-
gement au Canada du prédécesseur, cal-
culés selon le sous-alinéa 66.2(4)a)(i) 45
à l'égard de la seconde corporation
remplaçante immédiatement avant
cette date;

b) le montant à déduire selon l'alinéa a)
doit être ajouté à cette date aux frais 50

Seconde
corporation
remplaçante

66.1(5)(a)(ii) in respect of the second successor.”

cumulatifs d'exploration au Canada visés au sous-alinéa 66.1(5)a)(ii) à l'égard de la seconde corporation remplaçante.»

(15) Subsections (1) and (12) are applicable with respect to expenditures made after November, 1985.

(15) Les paragraphes (1) et (12) s'appliquent aux dépenses faites après novembre 5 1985.

(16) Subsections (2) to (5) and (13) and subsections 66.1(9) to (11) of the said Act, as enacted by subsection (14), are applicable with respect to expenses incurred after March, 1987.

(16) Les paragraphes (2) à (5) et (13), ainsi que les paragraphes 66.1(9) à (11) de la même loi, édictés par le paragraphe (14), 10 s'appliquent aux frais engagés après mars 10 1987.

(17) Subsections (7) and (8) are applicable after 1985.

(17) Les paragraphes (7) et (8) s'appliquent après 1985.

(18) Subsections (10) and (11) are applicable with respect to expenses incurred after the day this Act receives Royal Assent 15 except that in the application of subparagraph 66.1(6)(b)(ix) of the said Act, as enacted by subsection (11), with respect to expenses incurred after that day and before April, 1987 it shall be read as follows:

(18) Les paragraphes (10) et (11) s'appliquent 15 aux frais engagés après la date de sanction de la présente loi; toutefois, pour son application aux frais engagés après cette date et avant avril 1987, le sous-alinéa 66.1(6)b)(ix) de la même loi, édicté par le 20 paragraphe (11), est remplacé par ce qui 20 suit :

“(ix) any assistance that he has received or is entitled to receive in respect of a Canadian exploration expense incurred after 1980 or that can reasonably be related to Canadian 25 an exploration activities after 1980,”

«(ix) un montant à titre d'aide qu'il a reçu ou est en droit de recevoir concernant des frais d'exploration au 25 Canada engagés après 1980 ou qui peut raisonnablement se rapporter à des activités d'exploration au Canada postérieures à 1980,»

(19) Subsection 66.1(8) of the said Act, as enacted by subsection (14), is applicable with respect to expenses incurred after December, 1985.

(19) Le paragraphe 66.1(8) de la même 30 loi, édicté par le paragraphe (14), s'applique aux frais engagés après décembre 1985.

13. (1) Subparagraph 66.2(3)(a)(i) of the said Act is repealed and the following substituted therefor:

13. (1) Le sous-alinéa 66.2(3)a)(i) de la même loi est abrogé et remplacé par ce qui 35 suit :

“(i) the amount, if any, by which (A) the cumulative Canadian de- 35 velopment expense of the predecessor, determined at the time immediately after the properties were so acquired by the successor corporation, to the extent that it 40 has not been

«(i) de l'excédent éventuel (A) des frais cumulatifs d'aménagement au Canada du prédéces- 40 seur, calculés immédiatement après que les avoirs ont été ainsi acquis 40 par la corporation remplaçante, dans la mesure où ces frais n'ont pas été déduits par la corporation remplaçante dans le calcul de son revenu pour une année d'imposition 45 antérieure, ni n'ont été déduits par le prédécesseur dans le calcul de

(I) deducted by the successor corporation in computing its income for a preceding taxation year, 45

(II) deducted by the predecessor
in computing his income for any
taxation year, or
(III) designated by the predeces-
sor pursuant to subsection 5
66(14.2) for any taxation year
exceeds
(B) any amount required to be
deducted under paragraph
66.1(10)(b) in respect of the 10
successor corporation at any time
before the end of the year,”

(2) All that portion of subsection 66.2(3)
of the said Act following paragraph (b)
thereof is repealed and the following sub- 15
stituted therefor:

“and, in respect of any expense included in
the cumulative Canadian development
expense referred to in clause (a)(i)(A), no
deduction may be made under this section 20
by the predecessor in computing his
income for a taxation year subsequent to
his taxation year in which the property so
acquired was acquired by the successor
corporation.” 25

(3) Subparagraph 66.2(4)(a)(i) of the said
Act is repealed and the following substituted
therefor:

“(i) the amount, if any, by which
(A) the amount, if any, by which 30
the amount determined under sub-
paragraph (3)(a)(i) in respect of
the first successor corporation
immediately after the property so
acquired was acquired by the 35
second successor corporation
exceeds the amount determined
under subparagraph (3)(a)(ii) in
respect of the first successor corpo-
ration at that time to the extent 40
that it has not been deducted by the
first successor corporation in com-
puting its income for any taxation
year and has not been deducted by
the second successor corporation in 45
computing its income for a preced-
ing taxation year
exceeds
(B) any amount required to be
deducted under paragraph 50

son revenu pour une année d'impo-
sition ou désignées par le prédéces-
seur conformément au paragraphe
66(14.2) pour une année d'imposi- 5
tion
sur

(B) tout montant à déduire selon
l'alinéa 66.1(10)b) à l'égard de la
corporation remplaçante à une date
antérieure à la fin de l'année,” 10

(2) Le passage du paragraphe 66.2(3) de
la même loi qui suit l'alinéa b) est abrogé et
15 remplacé par ce qui suit :

«de plus, dans le calcul de son revenu pour
une année d'imposition postérieure à son 15
année d'imposition au cours de laquelle les
avoirs ainsi acquis l'ont été par la corpora-
tion remplaçante, le prédécesseur ne peut
faire aucune déduction en vertu du présent
article au titre d'une dépense comprise 20
dans les frais cumulatifs d'aménagement
au Canada visés à la division a)(i)(A).»

(3) Le sous-alinéa 66.2(4)a)(i) de la même
loi est abrogé et remplacé par ce qui suit :

“(i) de l'excédent éventuel 25
(A) de l'excédent éventuel du mon-
tant déterminé en vertu du sous-ali-
néa (3)a)(i) à l'égard de la pre-
mière corporation remplaçante
immédiatement après que les avoirs 30
ainsi acquis l'ont été par la seconde
corporation remplaçante sur le
montant déterminé en vertu du
sous-alinéa (3)a)(ii) à l'égard de la
première corporation remplaçante à 35
cette date, dans la mesure où cet
excédent n'a été déduit ni par la
première corporation remplaçante
dans le calcul de son revenu pour
une année d'imposition ni par la 40
seconde corporation remplaçante
dans le calcul de son revenu pour
une année d'imposition antérieure,
sur
(B) tout montant à déduire selon 45
l'alinéa 66.1(11)a) à l'égard de la

66.1(11)(a) in respect of the second successor corporation at any time before the end of the year”

seconde corporation remplaçante à une date antérieure à la fin de l'année.»

(4) All that portion of subsection 66.2(4) of the said Act following paragraph (b) thereof is repealed and the following substituted therefor:

(4) Le passage du paragraphe 66.2(4) de la même loi qui suit l'alinéa b) est abrogé et remplacé par ce qui suit :

“and, in respect of any expense included in the amount referred to in clause (a)(i)(A), no deduction may be made under this section by the first successor corporation in computing its income for a taxation year subsequent to its taxation year in which the property so acquired was acquired by the second successor corporation.”

«de plus, dans le calcul de son revenu pour une année d'imposition postérieure à son année d'imposition au cours de laquelle les avoirs ainsi acquis l'ont été par la seconde corporation remplaçante, la première corporation remplaçante ne peut faire aucune déduction en vertu du présent article au titre d'une dépense comprise dans l'excédent visé à la division a)(i)(A).»

(5) All that portion of paragraph 66.2(5)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

(5) Le passage de l'alinéa 66.2(5)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

“Canadian development expense”
«frais d'aménagement au Canada»

“(a) “Canadian development expense” of a taxpayer means any cost or expense incurred after May 6, 1974 that is”

«a) «frais d'aménagement au Canada» d'un contribuable s'entend des dépenses et coûts suivants engagés après le 6 mai 1974 :»

«frais d'aménagement au Canada»
“Canadian development expense”

(6) Clause 66.2(5)(a)(i)(B) of the said Act is repealed and the following substituted therefor:

(6) La division 66.2(5)a)(i)(B) de la même loi est abrogée et remplacée par ce qui suit :

“(B) drilling or completing an oil or gas well in Canada, building a temporary access road to the well or preparing a site in respect of the well, to the extent that the expense was not a Canadian exploration expense of the taxpayer in the taxation year in which it was incurred,”

«(B) pour le forage ou l'achèvement d'un puits de pétrole ou de gaz au Canada, la construction d'une route d'accès temporaire au puits ou la préparation d'un emplacement pour le puits, dans la mesure où cette dépense ne consiste pas en frais d'exploration au Canada du contribuable dans l'année d'imposition où elle est engagée.»

(7) Subparagraph 66.2(5)(a)(v) of the said Act is repealed and the following substituted therefor:

(7) Le sous-alinéa 66.2(5)a)(v) de la même loi est abrogé et remplacé par ce qui suit :

“(v) any cost or expense referred to in any of subparagraphs (i) to (iii) incurred by the taxpayer pursuant to an agreement in writing with a corporation, entered into before 1987, under which the taxpayer incurred the cost or expense solely as consideration for shares, other than prescribed

«(v) un coût ou une dépense visé à l'un des sous-alinéas (i) à (iii) et engagé par le contribuable conformément à une convention écrite conclue avec une corporation avant 1987 par laquelle le contribuable n'engage le coût ou la dépense qu'en paiement d'actions de la corporation — à l'ex-

shares, of the capital stock of the corporation issued to him or any interest in such shares or right thereto,”

(8) All that portion of paragraph 66.2(5)(a) of the said Act following subparagraph (vii) thereof is repealed and the following substituted therefor:

“but any assistance that a taxpayer has received or is entitled to receive after May 25, 1976 in respect of or related to his Canadian development expense shall not reduce the amount of any of the expenses described in any of subparagraphs (i) to (v);”

(9) Subparagraph 66.2(5)(b)(vii) of the said Act is repealed and the following substituted therefor:

“(vii) any amount included by him as an expense under subparagraph (a)(i) in computing his Canadian development expense for a previous taxation year that has become a Canadian exploration expense of the taxpayer by virtue of clause 66.1(6)(a)(ii)(B), (vii.1) any amount that before that time has become a Canadian exploration expense of the taxpayer by virtue of subsection 66.1(9),”

(10) Subparagraph 66.2(5)(b)(xi) of the said Act is repealed and the following substituted therefor:

“(xi) any assistance that he has received or is entitled to receive in respect of any Canadian development expense (including an expense that has become a Canadian exploration expense of the taxpayer by virtue of subsection 66.1(9)) incurred after 1980 or that can reasonably be related to Canadian development activities after 1980, or”

(11) Subsections (1) to (4), (6) and (9) are applicable with respect to expenses incurred after March, 1987.

(12) Subsections (8) and (10) are applicable with respect to expenses incurred after

clusion des actions visées par règlement — émises en sa faveur ou de droits afférents à de telles actions.»

(8) Le passage de l’alinéa 66.2(5)a) de la même loi qui suit le sous-alinéa (vii) est abrogé et remplacé par ce qui suit :

«cependant, aucun montant à titre d’aide qu’un contribuable a reçu ou est en droit de recevoir après le 25 mai 1976 concernant ses frais d’aménagement au Canada ou s’y rapportant ne peut réduire une dépense visée à l’un des sous-alinéas (i) à (v);»

(9) Le sous-alinéa 66.2(5)b)(vii) de la même loi est abrogé et remplacé par ce qui suit :

«(vii) un montant inclus par le contribuable à titre de dépense en vertu du sous-alinéa a)(i) dans le calcul de ses frais d’aménagement au Canada pour une année d’imposition antérieure et qui est devenu des frais d’exploration au Canada du contribuable à cause de la division 66.1(6)a)(ii)(B), (vii.1) un montant qui, avant cette date, est devenu des frais d’exploration au Canada du contribuable à cause du paragraphe 66.1(9),»

(10) Le sous-alinéa 66.2(5)b)(xi) de la même loi est abrogé et remplacé par ce qui suit :

«(xi) un montant à titre d’aide qu’il a reçu ou est en droit de recevoir concernant des frais d’aménagement au Canada — y compris des frais qui sont devenus des frais d’exploration au Canada du contribuable à cause du paragraphe 66.1(9) — engagés après 1980, ou qui peut raisonnablement se rapporter à des activités d’aménagement au Canada postérieures à 1980, ou»

(11) Les paragraphes (1) à (4), (6) et (9) s’appliquent aux frais engagés après mars 1987.

(12) Les paragraphes (8) et (10) s’appliquent aux frais engagés après la date de

the day this Act receives Royal Assent except that in the application of subparagraph 66.2(5)(b)(xi) of the said Act, as enacted by subsection (10), with respect to expenses incurred after that day and before April, 1987 it shall be read as follows:

“(xi) any assistance that he has received or is entitled to receive in respect of any Canadian development expense incurred after 1980 or that 10 can reasonably be related to Canadian development activities after 1980, or”

14. (1) Section 66.3 of the said Act is amended by adding thereto the following 15 subsections:

“(3) Any flow-through share (within the meaning assigned by paragraph 66(15)(d.1)) of a corporation acquired by a person who was a party to the agreement 20 pursuant to which it was issued shall be deemed to have been acquired by the person at a cost to him of nil.

(4) Where, at any time after February, 1986, a corporation has issued a flow-through share (within the meaning assigned by paragraph 66(15)(d.1)), in computing, at any particular time after that time, the paid-up capital in respect of the class of shares of the capital stock of 30 the corporation that included that share

(a) there shall be deducted the amount, if any, by which

(i) the increase as a result of the issue of the share in the paid-up capital, 35 determined without reference to this subsection as it applies to the share, in respect of all of the shares of that class

exceeds 40

(ii) the amount, if any, by which (A) the total amount of consideration received by the corporation in respect of the share

exceeds 45

(B) 50% of the aggregate of the expenses that were renounced by the corporation under subsection

sanction de la présente loi; toutefois, pour son application aux frais engagés après cette date et avant avril 1987, le sous-alinéa 66.2(5)b)(xi) de la même loi, édicté par le 5 paragraphe (10), est remplacé par ce qui suit :

«(xi) un montant à titre d'aide qu'il a reçu ou est en droit de recevoir concernant des frais d'aménagement au Canada engagés après 1980, ou qui 10 peut raisonnablement se rapporter à des activités d'aménagement au Canada postérieures à 1980, ou»

14. (1) L'article 66.3 de la même loi est 15 modifié par adjonction de ce qui suit :

«(3) La personne qui acquiert une action accréditive — au sens de l'alinéa 66(15)d.1) — d'une corporation et qui est partie à la convention d'émission de l'action est réputée acquérir celle-ci à un coût 20 nul.

(4) En cas d'émission par une corporation d'une action accréditive au sens de l'alinéa 66(15)d.1) à une date postérieure au 28 février 1986, dans le calcul, à une 25 date ultérieure, du capital versé au titre de la catégorie d'actions du capital-actions de cette corporation dont fait partie l'action accréditive :

a) d'une part, doit être déduit l'excé- 30 dent éventuel

(i) du montant correspondant à l'augmentation — conséquence de l'émission de l'action — du capital versé au titre de toutes les actions de la catégo- 35 rie, calculée sans appliquer le présent paragraphe à l'action,

sur

(ii) l'excédent éventuel

(A) du paiement prévu et reçu par 40 la corporation pour l'action

sur

(B) la moitié du total des frais auxquels la corporation a renoncé en vertu du paragraphe 66(12.6), 45 (12.62) ou (12.64) en ce qui concerne l'action;

Cost of
flow-through
shares

Paid-up capital

Coût d'une
action
accréditive

Capital versé

66(12.6), (12.62) or (12.64) in respect of the share; and		b) d'autre part, doit être ajouté le moindre :	
(b) there shall be added an amount equal to the lesser of		(i) de l'excédent éventuel	
(i) the amount, if any, by which	5	(A) du total des montants dont chacun représente un montant 5	
(A) the aggregate of all amounts each of which is an amount deemed by subsection 84(3), (4) or (4.1) to be a dividend on shares of that class paid by the corporation after Feb- 10		réputé par le paragraphe 84(3), (4) ou (4.1) être un dividende sur les actions de la catégorie versé par la corporation après février 1986 et avant la date ultérieure 10	
ruary, 1986 and before the particular time		sur	
exceeds		(B) le total qui serait calculé à la division (A) s'il n'était pas tenu compte de l'alinéa a),	
(B) the aggregate that would be determined under clause (A) if this 15		(ii) du total des montants dont 15	
Act were read without reference to paragraph (a), and		chacun représente un montant à déduire selon l'alinéa a) dans le calcul du capital versé au titre de la catégorie d'actions après février 1986 et avant la date ultérieure.» 20	
(ii) the aggregate of all amounts each of which is an amount required by paragraph (a) to be deducted in com- 20			
puting the paid-up capital in respect of that class of shares after February, 1986 and before the particular time."			

(2) Subsection (1) is applicable after February, 1986.	(2) Le paragraphe (1) s'applique après 25 février 1986.
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15. (1) All that portion of paragraph 66.4(5)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:	15. (1) Le passage de l'alinéa 66.4(5)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit : 25
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<div>"Canadian oil and gas property expense" expense" «frais à l'égard de biens canadiens relatifs au pétrole et au gaz»</div>	<div>“(a) “Canadian oil and gas property expense” of a taxpayer means any cost or expense incurred after December 11, 1979 that is”</div>	<div>«a) «frais à l'égard de biens canadiens relatifs au pétrole et au gaz» d'un contribuable s'entend des dépenses et coûts suivants engagés après le 11 décembre 1979 :»</div>	<div>«frais à l'égard de biens canadiens relatifs au pétrole et au gaz»</div>
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(2) Subparagraph 66.4(5)(a)(iii) of the said Act is repealed and the following substituted therefor:	(2) Le sous-alinéa 66.4(5)a)(iii) de la même loi est abrogé et remplacé par ce qui suit :
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<div>“(iii) any cost or expense referred to in subparagraph (i) incurred by the taxpayer pursuant to an agreement in writing with a corporation, entered into before 1987, under which the taxpayer incurred the cost or expense solely as consideration for shares, other than prescribed shares, of the capital stock of the corporation issued to him or any interest in such shares or right thereto,”</div>	<div>«(iii) un coût ou une dépense visé au sous-alinéa (i) et engagé par le contribuable conformément à une convention écrite conclue avec une corporation avant 1987 par laquelle le contribuable n'engage le coût ou la dépense qu'en paiement d'actions de la corporation — à l'exclusion des actions visées par règlement — émises en sa faveur ou de droits afférents à de telles actions,»</div>
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(3) All that portion of paragraph 66.4(5)(a) of the said Act following subparagraph (v) thereof is repealed and the following substituted therefor:

“but any amount of assistance that a taxpayer has received or is entitled to receive in respect of or related to his Canadian oil and gas property expense shall not reduce the amount of any of the expenses described in any of sub-paragraphs (i) to (iii);”

(4) Subparagraph 66.4(5)(b)(viii) of the said Act is repealed and the following substituted therefor:

“(viii) any assistance that he has received or is entitled to receive in respect of any Canadian oil and gas property expense incurred after 1980 or that can reasonably be related to any such expense after 1980,”

16. (1) The said Act is further amended by adding thereto, immediately after section 66.5 thereof, the following section:

“66.6 (1) Where a particular corporation has at any time after July 19, 1985 acquired by purchase, amalgamation, merger, winding-up or otherwise, from another person who is exempt from tax under this Part on his taxable income (other than a corporation that is referred to in paragraph 149(1)(d) and that is a principal-business corporation within the meaning of paragraph 66(15)(h)) all or substantially all of the person's Canadian resource properties, subsections 66(6) and (7), 66.1(4) and (5) and 66.2(3) and (4) do not apply to the particular corporation in respect of the acquisition of the properties except to the extent that the properties were acquired by it before 1987 pursuant to an agreement in writing made by it before July 20, 1985.

(2) Where a particular corporation has at any time after July 19, 1985 acquired by purchase, amalgamation, merger, winding-up or otherwise, from another person who is exempt from tax under this Part on his taxable income all or substantially all

(3) Le passage de l'alinéa 66.4(5)a) de la même loi qui suit le sous-alinéa (v) est abrogé et remplacé par ce qui suit :

«cependant, aucun montant à titre d'aide qu'un contribuable a reçu ou est en droit de recevoir concernant ses frais à l'égard de biens canadiens relatifs au pétrole et au gaz ou se rapportant à ces frais ne peut réduire une dépense visée à l'un des sous-alinéas (i) à (iii);»

(4) Le sous-alinéa 66.4(5)b)(viii) de la même loi est abrogé et remplacé par ce qui suit :

«(viii) des montants à titre d'aide que le contribuable a reçus ou est en droit de recevoir concernant les frais à l'égard de biens canadiens relatifs au pétrole et au gaz engagés après 1980, ou qui peuvent raisonnablement s'y rapporter après 1980.»

16. (1) La même loi est modifiée par insertion, après l'article 66.5, de ce qui suit :

«66.6 (1) Les paragraphes 66(6) et (7), 66.1(4) et (5) et 66.2(3) et (4) ne s'appliquent pas à la corporation qui acquiert, à une date postérieure au 19 juillet 1985, par achat, fusion, unification, liquidation ou autrement, la totalité ou presque des avoirs miniers canadiens d'une autre personne qui est exonérée de l'impôt prévu par la présente partie sur son revenu imposable mais qui n'est pas une corporation visée à l'alinéa 149(1)d) exploitant une entreprise principale au sens de l'alinéa 66(15)h); ces paragraphes s'appliquent toutefois si la corporation acquiert les avoirs avant 1987 conformément à une convention écrite conclue par celle-ci avant le 20 juillet 1985.

(2) Les paragraphes 66.4(3) et (4) ne s'appliquent pas à la corporation qui acquiert, à une date postérieure au 19 juillet 1985, par achat, fusion, unification, liquidation ou autrement, la totalité ou presque des avoirs miniers canadiens d'une

Exception aux règles concernant les corporations remplaçantes

Exception aux règles concernant les corporations remplaçantes y compris celles d'État

Application of subsecs. 66(6), (7), etc.

Application of subsecs. 66.4(3) and (4)

Transfers and
loans to minors

of the person's Canadian resource properties, subsections 66.4(3) and (4) do not apply to the particular corporation in respect of the acquisition of the properties except to the extent that the properties were acquired by it before 1987 pursuant to an agreement in writing made by it before July 20, 1985."

(2) Subsection (1) is applicable to taxation years ending after July 19, 1985.

17. (1) Subsection 74.1(2) of the said Act is repealed and the following substituted therefor:

"(2) Where an individual has transferred or loaned property, either directly or indirectly, by means of a trust or by any other means whatever, to or for the benefit of a person who was under 18 years of age and who

(a) does not deal with the individual at arm's length, or

(b) is the niece or nephew of the individual,

any income or loss, as the case may be, of that person for a taxation year from the property or from property substituted therefor, that relates to the period in the year throughout which the individual is resident in Canada, shall be deemed to be income or a loss, as the case may be, of the individual and not of that person unless that person has, before the end of the year, attained the age of 18 years."

(2) Subsection (1) is applicable with respect to transfers of property made after May 22, 1985 and with respect to loans that are outstanding on or after May 22, 1985, except that in the case of a loan outstanding on May 22, 1985

(a) it is not applicable if the loan is repaid before 1988; and

(b) if the loan is not repaid before 1988, it does not apply to any income or loss, as the case may be, relating to any period ending before 1988.

18. (1) Subsection 74.3(2) of the said Act is repealed.

autre personne qui est exonérée de l'impôt prévu par la présente partie sur son revenu imposable; ces paragraphes s'appliquent toutefois si la corporation acquiert les avoirs avant 1987 conformément à une convention écrite conclue par celle-ci avant le 20 juillet 1985.»

(2) Le paragraphe (1) s'applique aux 10 années d'imposition se terminant après le 19 juillet 1985.

17. (1) Le paragraphe 74.1(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Lorsqu'un particulier transfère ou prête un bien — directement ou indirectement, par le biais d'un fiducie ou par tout autre moyen — à une personne de moins de 18 ans qui a un lien de dépendance avec le particulier ou qui est le neveu ou la nièce du particulier ou au profit de cette personne, le revenu ou la perte, selon le cas, de cette personne pour une année d'imposition provenant du bien ou d'un bien y substitué, qui se rapporte à la période de l'année tout au long de laquelle le particulier réside au Canada, est considéré comme un revenu ou une perte, selon le cas, du particulier et non de cette personne, sauf si celle-ci atteint l'âge de 18 ans avant la fin de l'année.»

Transfert ou
prêt à un
mineur

(2) Le paragraphe (1) s'applique aux transferts de biens effectués après le 22 mai 1985 et aux prêts non remboursés le 22 mai 1985 ou après; toutefois, dans le cas d'un prêt non remboursé le 22 mai 1985, ce paragraphe n'est pas applicable si le prêt est remboursé avant 1988, et si le prêt n'est pas remboursé avant 1988, ce paragraphe ne s'applique pas à un revenu ou une perte, selon le cas, qui se rapporte à une période se terminant avant 1988.

18. (1) Le paragraphe 74.3(2) de la même loi est abrogé.

(2) Subsection (1) is applicable with respect to transfers of property made after May 22, 1985 and with respect to loans that are outstanding on or after May 22, 1985.

19. (1) Section 74.4 of the said Act is repealed.

(2) The said Act is further amended by adding thereto, immediately after section 74.3 thereof, the following section:

Definition of
"excluded
consideration"

"74.4 (1) In this section, "excluded consideration", at any time, means consideration received by an individual that is

- (a) indebtedness;
- (b) a share of the capital stock of a corporation; or
- (c) a right to receive indebtedness or a share of the capital stock of a corporation.

Transfers and
loans to corp.

(2) Where an individual has transferred or loaned property, either directly or indirectly, by means of a trust or by any other means whatever, to a corporation and one of the main purposes of the transfer or loan may reasonably be considered to be to reduce the income of the individual and to benefit, either directly or indirectly, by means of a trust or by any other means whatever, a person who is a designated person in respect of the individual, in computing the income of the individual for any taxation year that includes a period after the loan or transfer throughout which

(a) the person is a designated person in respect of the individual and would have been a specified shareholder of the corporation if the definition "specified shareholder" in subsection 248(1) were read without reference to paragraphs (a) and (d) thereof,

(b) the individual was resident in Canada, and

(c) the corporation was not a small business corporation,

the individual shall be deemed to have received as interest in the year the amount, if any, by which

(2) Le paragraphe (1) s'applique aux transferts de biens effectués après le 22 mai 1985 et aux prêts non remboursés le 22 mai 1985 ou après.

19. (1) L'article 74.4 de la même loi est abrogé.

(2) La même loi est modifiée par insertion, après l'article 74.3, de ce qui suit :

"74.4 (1) Au présent article, «contrepartie exclue» s'entend, à une date quelconque, de la contrepartie qu'un particulier reçoit sous forme :

- a) de titre de créance;
- b) d'action; ou
- c) de droit de recevoir un titre de créance ou une action.

Définition de
«contrepartie
exclue»

(2) En cas de transfert ou prêt d'un bien — directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen — à une corporation par un particulier, s'il est raisonnable de considérer que l'un des principaux objets du transfert ou du prêt consiste à réduire le revenu du particulier et à avantager directement ou indirectement, par le biais d'une fiducie ou par tout autre moyen, quelqu'un qui, en ce qui concerne le particulier, est une personne désignée, dans le calcul du revenu de ce particulier pour une année d'imposition qui comprend une période, postérieure au transfert ou au prêt, tout au long de laquelle le particulier réside au Canada, la corporation visée n'est pas une corporation exploitant une petite entreprise et ce quelqu'un est à la fois une personne désignée, en ce qui concerne le particulier, et un actionnaire désigné de la corporation — au sens du paragraphe 248(1), abstraction faite des alinéas a) et d) de la définition d'«actionnaire désigné» — le particulier est réputé avoir reçu comme intérêts au cours de l'année l'excédent éventuel

Transfert ou
prêt à une
corporation

a) du montant qui serait l'intérêt sur la valeur impayée du bien transféré ou sur le montant non remboursé du prêt pour toutes périodes semblables de l'année s'il

(d) the amount that would be interest on the outstanding amount of the loan or transferred property for such periods in the year if the interest were computed thereon at the prescribed rate of interest for such periods 5

exceeds the aggregate of

(e) any interest received in the year by the individual in respect of the transfer or loan (other than amounts deemed by 10 this subsection to be interest), and

(f) 4/3 of all taxable dividends received (other than dividends deemed by section 84 to have been received) by the individual in the year on shares that 15 were received from the corporation as consideration for the transfer or as repayment for the loan that were excluded consideration at the time the dividends were received or on shares 20 substituted therefor that were excluded consideration at that time.

(3) For the purposes of subsection (2), the outstanding amount of a transferred property or loan at a particular time is 25

(a) in the case of a transfer of property to a corporation, the amount, if any, by which the fair market value of the property at the time of the transfer exceeds the aggregate of 30

(i) the fair market value, at the time of the transfer, of the consideration (other than consideration that is excluded consideration at the particular time) received by the transferor 35 for the property, and

(ii) the fair market value, at the time of receipt, of any consideration (other than consideration that is excluded consideration at the particular time) 40 received by the transferor at or before the particular time from the corporation or from a person with whom the transferor deals at arm's length, in exchange for excluded consideration 45 previously received by the transferor as consideration for the property or for excluded consideration substituted for such consideration,

était calculé au taux prescrit pour ces périodes

sur

b) le total :

(i) des intérêts que le particulier 5 reçoit au cours de l'année sur le transfert ou le prêt, abstraction faite des intérêts réputés reçus en vertu du présent paragraphe,

(ii) et des 4/3 de tous les dividendes 10 imposables reçus par le particulier au cours de l'année — sauf les dividendes réputés reçus en vertu de l'article 84 — sur les actions reçues de la corporation en contrepartie du transfert ou 15 en remboursement du prêt qui sont, à la date de réception des dividendes, une contrepartie exclue ou sur des actions y substituées qui sont, à cette date, une contrepartie exclue. 20

(3) Pour l'application du paragraphe (2),

a) la valeur impayée, à une date donnée, d'un bien transféré à une corporation est l'excédent éventuel de la juste 25 valeur marchande du bien à la date du transfert sur le total :

(i) de la juste valeur marchande, à la date du transfert, de la contrepartie — qui n'est pas, à la date donnée, une 30 contrepartie exclue — que le cédant reçoit pour le bien

(ii) et de la juste valeur marchande, à la date de sa réception, de la contrepartie — qui n'est pas, à la date 35 donnée, une contrepartie exclue — que le cédant reçoit, à la date donnée ou avant, de la corporation ou d'une personne avec qui le cédant n'a aucun lien de dépendance, en échange de la 40 contrepartie exclue reçue précédemment par le cédant pour le bien ou de la contrepartie exclue substituée à celle-ci;

b) le montant non remboursé, à une 45 date donnée, d'un prêt à une corporation est l'excédent éventuel du principal du

Valeur impayée
ou montant non
remboursé

Outstanding
amount

(b) in the case of a loan of money or property to a corporation, the amount, if any, by which

- (i) the principal amount of the loan of money at the time the loan was made, or
- (ii) the fair market value of the property loaned at the time the loan was made,

as the case may be, exceeds the fair market value, at the time the repayment is received by the lender, of any repayment of the loan (other than a repayment that is excluded consideration at the particular time)."

(3) Subsection (1) is applicable with respect to loans and transfers of property made after November 21, 1985.

(4) Subsection (2) is applicable to the 1987 and subsequent taxation years but only with respect to loans and transfers of property made after October 27, 1986.

20. (1) Paragraphs 74.5(3)(a) and (b) of the said Act are repealed and the following substituted therefor:

"(a) subsection 74.1(1) does not apply with respect to any income or loss from the property, or property substituted therefor, that relates to the period throughout which the individual is living separate and apart from that person by reason of a breakdown of their marriage; and

(b) section 74.2 does not apply with respect to a disposition of the property, or property substituted therefor, during the period throughout which the individual is living separate and apart from that person by reason of a breakdown of their marriage, if the individual files with his return of income under this Part for the taxation year during which the individual commenced to so live separate and apart from that person an election completed jointly with that person not to have that section apply."

(2) Subsections 74.5(4) to (8) of the said Act are repealed and the following substituted therefor:

prêt à la date où il est consenti s'il s'agit de prêt d'argent, sinon de la juste valeur marchande du bien à cette même date, sur la juste valeur marchande, à la date de leur réception par le prêteur, des remboursements effectués sur le prêt qui ne consistent pas à la date donnée en une contrepartie exclue.»

(3) Le paragraphe (1) s'applique aux prêts et transferts de biens effectués après le 21 novembre 1985.

(4) Le paragraphe (2) s'applique aux années d'imposition 1987 et suivantes pour ce qui est des prêts et transferts de biens effectués après le 27 octobre 1986.

20. (1) Les alinéas 74.5(3)a) et b) de la même loi sont abrogés et remplacés par ce qui suit :

«a) le paragraphe 74.1(1) ne s'applique pas à un revenu ou à une perte provenant du bien ou d'un bien y substitué, qui se rapporte à la période tout au long de laquelle le particulier vit séparé de cette personne pour cause d'échec du mariage;

b) l'article 74.2 ne s'applique pas à une disposition du bien ou d'un bien y substitué, au cours de la période tout au long de laquelle le particulier vit séparé de cette personne pour cause d'échec du mariage, si le particulier et cette personne choisissent conjointement de ne pas se prévaloir de cet article dans la déclaration de revenu du particulier en vertu de la présente partie pour l'année d'imposition au cours de laquelle il a commencé à vivre séparé de cette personne.»

(2) Les paragraphes 74.5(4) à (8) de la même loi sont abrogés et remplacés par ce qui suit :

Idem

“(4) No amount shall be included in computing the income of an individual under subsection 74.4(2) in respect of a designated person in respect of the individual who is the spouse of the individual for any period throughout which the individual is living separate and apart from the designated person by reason of a breakdown of their marriage.

Definition of “designated person”

(5) For the purposes of sections 74.3 10 and 74.4 and this section, “designated person” in respect of an individual means a person

- (a) who is the spouse of the individual; or 15
- (b) who is under 18 years of age and who
 - (i) does not deal with the individual at arm’s length, or
 - (ii) is the niece or nephew of the 20 individual.

Back to back loans and transfers

(6) Where an individual has loaned or transferred property

- (a) to another person and that property, or property substituted therefor, is 25 loaned or transferred by any person (in this subsection referred to as a “third party”) directly or indirectly to or for the benefit of a specified person with respect to the individual, or 30
- (b) to another person on condition that property be loaned or transferred by any person (in this subsection referred to as a “third party”) directly or indirectly to or for the benefit of a specified person 35 with respect to the individual,

the following rules apply:

- (c) for the purposes of sections 74.1, 74.2, 74.3 and 74.4, the property loaned or transferred by the third party shall be 40 deemed to have been loaned or transferred, as the case may be, by the individual to or for the benefit of the specified person; and
- (d) for the purposes of subsection (1), 45 the consideration received by the third party for the transfer of the property shall be deemed to have been received by the individual.

Idem

“(4) Aucun montant ne peut être inclus dans le calcul du revenu d’un particulier en application du paragraphe 74.4(2) en ce qui concerne une personne désignée qui est le conjoint du particulier, pour une période 5 tout au long de laquelle ils vivent séparés l’un de l’autre pour cause d’échec du mariage.

Définition de «personne désignée»

(5) Pour l’application des articles 74.3 10 et 74.4 et du présent article, «personne désignée» s’entend, en ce qui concerne un particulier,

- a) du conjoint du particulier;
- b) d’une personne de moins de 18 ans qui a un lien de dépendance avec le 15 particulier ou qui est le neveu ou la nièce du particulier.

Prêts et transferts multiples

(6) Dans le cas où un particulier prête ou transfère un bien

- a) à une autre personne et où une per- 20 sonne — appelée «tiers» au présent paragraphe — prête ou transfère ce bien ou un bien y substitué, directement ou indirectement, à une personne donnée, en ce qui concerne le particulier, ou au profit 25 de cette personne, ou
- b) à une autre personne à la condition qu’une personne — appelée «tiers» au présent paragraphe — prête ou transfère ce bien, directement ou indirecte- 30 ment, à une personne donnée, en ce qui concerne le particulier, ou au profit de cette personne,

les règles suivantes s’appliquent :

- c) pour l’application des articles 74.1, 35 74.2, 74.3 et 74.4, le bien que le tiers prête ou transfère est réputé prêté ou transféré, selon le cas, par le particulier à la personne donnée ou à son profit;
- d) pour l’application du paragraphe (1), 40 la contrepartie que le tiers reçoit pour le transfert du bien est réputée reçue par le particulier.

Guarantees

(7) Where an individual is obligated, either absolutely or contingently, to effect any undertaking including any guarantee, covenant or agreement given to ensure the repayment, in whole or in part, of a loan made by any person (in this subsection referred to as the "third party") directly or indirectly to or for the benefit of a specified person with respect to the individual or the payment, in whole or in part, of any interest payable in respect of the loan, the following rules apply:

(a) for the purposes of sections 74.1, 74.2, 74.3 and 74.4, the property loaned by the third party shall be deemed to have been loaned by the individual to or for the benefit of the specified person; and

(b) for the purposes of paragraphs (2)(b) and (c), the amount of interest that is paid in respect of the loan shall be deemed not to include any amount paid by the individual to the third party as interest on the loan.

Definition of "specified person"

(8) For the purposes of subsections (6) and (7), "specified person", with respect to an individual, means

(a) a designated person in respect of the individual; or

(b) a corporation, other than a small business corporation, of which a designated person in respect of the individual would have been a specified shareholder of the corporation if the definition "specified shareholder" in subsection 248(1) were read without reference to paragraphs (a) and (d) thereof."

(3) Section 74.5 of the said Act is further amended by adding thereto the following subsection:

"(12) Sections 74.1, 74.2 and 74.3 do not apply in respect of a transfer by an individual of property

(a) as a payment of a premium under a registered retirement savings plan under which the individual's spouse is, immediately after the transfer, the annuitant (within the meaning of subsection 146(1)) to the extent that the

Application

(7) Dans le cas où un particulier est tenu, conditionnellement ou non, d'exécuter un engagement, notamment une garantie, un accord ou une convention conclu afin d'assurer soit le remboursement, en tout ou en partie, d'un prêt qu'une personne — appelée « tiers » au présent paragraphe — consent, directement ou indirectement, à une personne donnée, en ce qui concerne le particulier, ou au profit de cette personne, soit le paiement, en tout ou en partie, des intérêts payables sur le prêt, les règles suivantes s'appliquent :

a) pour l'application des articles 74.1, 74.2, 74.3 et 74.4, le bien prêté par le tiers est réputé prêté par le particulier à la personne donnée ou au profit de cette personne;

b) pour l'application des alinéas (2)b) et c), le montant des intérêts payés sur le prêt est réputé ne pas comprendre un montant payé par le particulier au tiers à titre d'intérêts sur le prêt.

(8) Pour l'application des paragraphes (6) et (7), « personne donnée » s'entend, en ce qui concerne un particulier,

a) d'une personne désignée en ce qui concerne ce particulier;

b) d'une corporation — à l'exclusion d'une corporation exploitant une petite entreprise — dont une personne désignée, en ce qui concerne le particulier, est actionnaire désigné au sens du paragraphe 248(1), abstraction faite des alinéas a) et d) de la définition.

(3) L'article 74.5 de la même loi est modifié par adjonction de ce qui suit :

«(12) Les articles 74.1, 74.2 et 74.3 ne s'appliquent pas aux transferts de biens effectués par un particulier :

a) soit en paiement d'une prime en vertu d'un régime enregistré d'épargne-retraite dont le conjoint du particulier est le rentier — au sens du paragraphe 146(1) — immédiatement après le transfert, dans la mesure où cette prime

Garanties

Définition de «personne donnée»

Application

premium is deductible in computing the income of the individual for a taxation year; or

(b) as or on account of an amount paid by the individual to another individual who is his spouse or a person who was under 18 years of age in a taxation year and who

(i) does not deal with the individual at arm's length, or

(ii) is the niece or nephew of the individual,

that is deductible in computing his income for the year and is required to be included in computing the income of the other individual."

(4) Subsections (1) and (2) are applicable with respect to transfers of property made after May 22, 1985 and loans outstanding on or after May 22, 1985.

(5) Subsection (3) is applicable with respect to transfers of property made after May 22, 1985.

21. (1) Subsections 78(3) to (6) of the said Act are repealed and the following substituted therefor:

"(3) Where, in respect of an amount described in subsection (1) that was owing by a taxpayer to a person, an agreement in a form prescribed for the purposes of this section is filed after the day on or before which the agreement is required to be filed for the purposes of paragraph (1)(b), both paragraphs (1)(a) and (1)(b) apply in respect of the said amount, except that paragraph (1)(a) shall be read and construed as requiring 25% only of the said amount to be included in computing the taxpayer's income.

(4) Where an amount in respect of a taxpayer's expense that is salary, wages or other remuneration (other than reasonable vacation or holiday pay or a deferred amount under a salary deferral arrangement) in respect of an office or employment is unpaid on the day that is 180 days after the end of the taxation year in which the expense was incurred, for the purposes of this Act other than this subsection, the

est déductible dans le calcul du revenu du particulier pour une année d'imposition;

b) soit en paiement, ou au titre d'un paiement, par le particulier à un autre particulier qui est, au cours d'une année d'imposition, son conjoint ou une personne de moins de 18 ans qui a un lien de dépendance avec le particulier ou qui est la nièce ou le neveu du particulier, d'un montant, d'une part, déductible dans le calcul du revenu du particulier pour l'année et, d'autre part, à inclure dans le calcul du revenu de l'autre particulier.»

(4) Les paragraphes (1) et (2) s'appliquent aux transferts de biens effectués après le 22 mai 1985 et aux prêts non remboursés le 22 mai 1985 ou après.

(5) Le paragraphe (3) s'applique aux transferts de biens effectués après le 22 mai 1985.

21. (1) Les paragraphes 78(3) à (6) de la même loi sont abrogés et remplacés par ce qui suit :

«(3) Lorsque, pour l'application du présent article, un accord concernant une somme visée au paragraphe (1) qu'un contribuable doit à une personne est produit sur le formulaire réglementaire après le dernier jour fixé pour sa production aux fins de l'alinéa (1)b), les alinéas (1)a) et b) s'appliquent tous deux à cette somme sauf que l'alinéa (1)a) est censé prévoir l'inclusion de seulement 25 % de cette somme dans le calcul du revenu du contribuable.

(4) Pour l'application de la présente loi, la somme, au titre d'une dépense d'un contribuable consistant en un traitement, un salaire ou une autre rémunération — à l'exclusion d'une paie raisonnable de vacances ou de congés et d'un montant différé dans le cadre d'une entente d'échelonnement du traitement — pour une charge ou un emploi, qui est impayée le 180^e jour suivant la fin de l'année d'impo-

Production
tardive de
l'accord

Rémunération
impayée

Late filing

Unpaid
remuneration

amount shall be deemed not to have been incurred as an expense in the year and shall be deemed to be incurred as an expense in the taxation year in which the amount is paid.

Application

(5) Subsection (1) does not apply in any case where subsection (4) applies."

(2) Subsection (1) is applicable with respect to expenses incurred in taxation years commencing after February 25, 1986.

22. (1) Paragraph 80(1)(a) of the said Act is amended by striking out the word "and" at the end of subparagraph (ii) thereof, by adding the word "and" at the end of subparagraph (iii) thereof and by adding thereto the following subparagraph:

"(iv) limited partnership losses,"

(2) Subsection (1) is applicable after February 25, 1986.

23. (1) All that portion of subsection 82(1) of the said Act following paragraph (a) thereof is repealed and the following substituted therefor:

"plus

(b) where the taxpayer is an individual, other than a trust that is a registered charity, $\frac{1}{3}$ of the aggregate of all amounts described in paragraph (a) received by him in the year from taxable Canadian corporations."

(2) Subsection (1) is applicable with respect to taxable dividends received after 1986.

24. (1) Subsection 87(2) of the said Act is amended by adding thereto, immediately after paragraph (g) thereof, the following paragraph:

"(g.1) for the purposes of section 26, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;"

Continuation

sition au cours de laquelle la dépense est engagée, est réputée ne pas être engagée comme dépense dans l'année mais est réputée l'être dans l'année d'imposition où elle est payée.

5

(5) Le paragraphe (4) prévaut sur le paragraphe (1)."

Application

(2) Le paragraphe (1) s'applique aux dépenses engagées au cours des années d'imposition commençant après le 25 février 1986.

22. (1) L'alinéa 80(1)a) de la même loi est modifié par suppression du mot «et» à la fin du sous-alinéa (ii) et par adjonction de ce qui suit :

15

«(iv) les pertes comme commanditaire ou assimilé,»

(2) Le paragraphe (1) s'applique après le 25 février 1986.

23. (1) Le passage du paragraphe 82(1) de la même loi qui suit l'alinéa a) est abrogé et remplacé par ce qui suit :

«majorées

b) du tiers du total des sommes visées à l'alinéa a) qu'il a reçues dans l'année de 25 corporations canadiennes imposables, lorsque le contribuable est un particulier autre qu'une fiducie qui est un organisme de charité enregistré.»

(2) Le paragraphe (1) s'applique aux dividendes imposables reçus après 1986.

24. (1) Le paragraphe 87(2) de la même loi est modifié par insertion, après l'alinéa g), de ce qui suit :

«g.1) pour l'application de l'article 26, la nouvelle corporation est réputée être la même corporation que chaque corporation remplacée et en être la continuation;»

Continuation

Employee
benefit plans,
etc.

Non-capital
losses, etc., of
subsidiary

(2) Paragraph 87(2)(j.3) of the said Act is repealed and the following substituted therefor:

“(j.3) for the purposes of paragraphs 12(1)(n.2) and 20(1)(oo) and section 32.1, the new corporation shall be deemed to be the same corporation as, and a continuation of, each predecessor corporation;”

(3) Paragraphs 87(2.1)(a) and (b) of the said Act are repealed and the following substituted therefor:

“(a) determining the new corporation’s non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for any taxation year, and

(b) determining the extent to which subsections 111(3) to (5.4) apply to restrict the deductibility by the new corporation of any non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be,”

(4) Subsection (1) is applicable in respect of amalgamations occurring after 1979.

(5) Subsection (2) is applicable with respect to amalgamations occurring after February 25, 1986.

(6) Subsection (3) is applicable after February 25, 1986.

25. (1) All that portion of subsection 88(1.1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

“(1.1) Where a Canadian corporation (in this subsection referred to as the “subsidiary”) has been wound-up and not less than 90% of the issued shares of each class of the capital stock of the subsidiary were, immediately before the winding-up, owned by another Canadian corporation (in this subsection referred to as the “parent”) and all the shares of the subsidiary that were

(2) L’alinéa 87(2)j.3) de la même loi est abrogé et remplacé par ce qui suit :

«j.3) pour l’application des alinéas 12(1)n.2) et 20(1)oo) et de l’article 32.1, la nouvelle corporation est réputée être la même corporation que chaque corporation remplacée et en être la continuation;»

(3) Les alinéas 87(2.1)a) et b) de la même loi sont abrogés et remplacés par ce qui suit :

«a) de déterminer, pour une année d’imposition, la perte autre qu’une perte en capital, la perte en capital nette, la perte agricole restreinte, la perte agricole ou la perte comme commanditaire ou associé, selon le cas, de la nouvelle corporation, et

b) de déterminer dans quelle mesure les paragraphes 111(3) à (5.4) s’appliquent de manière à restreindre le montant que la nouvelle corporation peut déduire à titre de perte autre qu’une perte en capital, perte en capital nette, perte agricole restreinte, perte agricole ou perte comme commanditaire ou assimilé, selon le cas,»

(4) Le paragraphe (1) s’applique aux fusions qui ont lieu après 1979.

(5) Le paragraphe (2) s’applique aux fusions qui ont lieu après le 25 février 1986.

(6) Le paragraphe (3) s’applique après le 25 février 1986.

25. (1) Le passage du paragraphe 88(1.1) de la même loi qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :

«(1.1) Lorsqu’une corporation canadienne (appelée «filiale» au présent paragraphe) a été liquidée, qu’au moins 90 % des actions émises de chaque catégorie du capital-actions de la filiale appartenaient, immédiatement avant la liquidation, à une autre corporation canadienne (appelée «corporation mère» au présent paragraphe) et que toutes les actions de la filiale n’ap-

Continuation

Pertes des
filiales

not owned by the parent immediately before the winding-up were owned at that time by a person or persons with whom the parent was dealing at arm's length, for the purpose of computing the taxable income of the parent under this Part and the tax payable under Part IV by the parent for any taxation year commencing after the commencement of the winding-up, such portion of any non-capital loss, restricted farm loss, farm loss or limited partnership loss of the subsidiary as may reasonably be regarded as its loss from carrying on a particular business (in this subsection referred to as the "subsidiary's loss business") and any other portion of any non-capital loss or limited partnership loss of the subsidiary as may reasonably be regarded as being derived from any other source or being in respect of a claim made under section 110.5 for any particular taxation year of the subsidiary (in this subsection referred to as the "subsidiary's loss year"), to the extent that it"

(2) Paragraphs 88(1.1)(c) and (d) of the said Act are repealed and the following substituted therefor:

"(c) in the case of such portion of any non-capital loss, restricted farm loss, farm loss or limited partnership loss of the subsidiary as may reasonably be regarded as its loss from carrying on the subsidiary's loss business, be deemed, for the taxation year of the parent in which the subsidiary's loss year ended, to be a non-capital loss, restricted farm loss, farm loss or limited partnership loss, respectively, of the parent from carrying on the subsidiary's loss business, that was not deductible by the parent in computing its taxable income for any taxation year that commenced

partenant pas à la corporation mère immédiatement avant la liquidation appartenaient à cette date à une ou plusieurs personnes avec lesquelles la corporation mère n'avait aucun lien de dépendance, aux fins du calcul du revenu imposable de la corporation mère en vertu de la présente partie et de l'impôt payable par elle en vertu de la partie IV pour toute année d'imposition commençant après le début de la liquidation, la fraction d'une perte autre qu'une perte en capital, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire ou assimilé subie par la filiale qu'il est raisonnable de considérer comme résultant de l'exploitation d'une entreprise donnée (appelée «entreprise déficitaire de la filiale» au présent paragraphe), de même que toute autre fraction d'une perte autre qu'une perte en capital ou d'une perte comme commanditaire ou assimilé subie par la filiale qu'il est raisonnable de considérer comme dérivant d'une autre source et toute autre fraction d'une perte autre qu'une perte en capital subie par la filiale qu'il est raisonnable de considérer comme relative à une demande faite en vertu de l'article 110.5 pour une année d'imposition donnée de la filiale (appelée «année de la perte subie par la filiale» au présent paragraphe), dans la mesure où chacune de ces fractions»

(2) Les alinéas 88(1.1)c) et d) de la même loi sont abrogés et remplacés par ce qui suit :

«c) dans le cas de la fraction d'une perte autre qu'une perte en capital, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire ou assimilé subie par la filiale qu'il est raisonnable de considérer comme la perte qu'elle a subie dans l'exploitation de son entreprise déficitaire, réputée être, pour l'année d'imposition de la corporation mère dans laquelle s'est terminée l'année de la perte subie par la filiale, une perte autre qu'une perte en capital, une perte agricole restreinte, une perte agricole ou une perte comme commanditaire ou assi-

before the commencement of the winding-up,

(d) in the case of any other portion of any non-capital loss or limited partnership loss of the subsidiary as may reasonably be regarded as being derived from any other source, be deemed, for the taxation year of the parent in which the subsidiary's loss year ended, to be a non-capital loss or a limited partnership loss, respectively, of the parent that was derived from the source from which the subsidiary derived the loss and that was not deductible by the parent in computing its taxable income for any taxation year that commenced before the commencement of the winding-up, and"

milé, respectivement, subie par la corporation mère résultant de l'exploitation de l'entreprise déficitaire de la filiale, et qui n'était pas déductible par la corporation mère dans le calcul de son revenu imposable pour toute année d'imposition qui a commencé avant le début de la liquidation,

d) dans le cas d'une autre fraction d'une perte autre qu'une perte en capital ou d'une perte comme commanditaire ou assimilé subie par la filiale qu'il est raisonnable de considérer comme dérivant d'une autre source, réputée être, pour l'année d'imposition de la corporation mère dans laquelle s'est terminée l'année de la perte subie par la filiale, une perte autre qu'une perte en capital ou une perte comme commanditaire ou assimilé subie par la corporation mère qui dérivait de la même source que la fraction de la perte autre qu'une perte en capital ou de la perte comme commanditaire ou assimilé, respectivement, subie par la filiale, et qui n'était pas déductible par la corporation mère dans le calcul de son revenu imposable pour toute année d'imposition qui a commencé avant le début de la liquidation,»

(3) Subsections (1) and (2) are applicable after February 25, 1986.

(3) Les paragraphes (1) et (2) s'appliquent après le 25 février 1986.

26. (1) Section 96 of the said Act is amended by adding thereto, immediately after subsection (2) thereof, the following subsections:

26. (1) L'article 96 de la même loi est modifié par insertion, après le paragraphe (2), de ce qui suit :

Limited partnership losses

"(2.1) Notwithstanding subsection (1), where a taxpayer is, at any time in a taxation year, a limited partner of a partnership, the amount, if any, by which

(a) the aggregate of all amounts each of which is his share of the amount of any loss of the partnership for a fiscal period of the partnership ending in the taxation year from a business (other than a farming business) or from property exceeds

(b) the amount, if any, by which

«(2.1) Par dérogation au paragraphe (1), dans le cas où un contribuable est commanditaire ou assimilé d'une société au cours d'une année d'imposition, l'excédent éventuel

a) du total des montants dont chacun représente la part, dont il est tenu, d'une perte de la société résultant d'une entreprise non agricole ou d'un bien pour un exercice financier de la société se terminant dans l'année,

b) l'excédent éventuel

Perte comme commanditaire ou assimilé

45

35

sur

(i) the taxpayer's at-risk amount in respect of the partnership at the end of the fiscal period

exceeds the aggregate of

(ii) the amount required by subsection 127(8) in respect of the partnership to be added in computing the investment tax credit of the taxpayer for the taxation year,

(iii) the taxpayer's share of any losses of the partnership for the fiscal period from a farming business, and

(iv) the taxpayer's share of

(A) the foreign exploration and development expenses, if any, incurred by the partnership in the fiscal period,

(B) the Canadian exploration expense, if any, incurred by the partnership in the fiscal period,

(C) the Canadian development expense, if any, incurred by the partnership in the fiscal period, and

(D) the Canadian oil and gas property expense, if any, incurred by the partnership in the fiscal period,

shall

(c) not be deducted in computing his income for the year,

(d) not be included in computing his non-capital loss for the year, and

(e) be deemed to be his limited partnership loss in respect of the partnership for the year.

At-risk amount

(2.2) For the purposes of this section and sections 111 and 127, the at-risk amount of a taxpayer, in respect of a partnership of which he is a limited partner, at any particular time is the amount, if any, by which the aggregate of

(a) the adjusted cost base to the taxpayer of his partnership interest at that time computed in accordance with subsection (2.3) where applicable, and

(b) where the particular time is the end of the fiscal period of the partnership, the taxpayer's share of the income of the partnership from a source for that fiscal

(i) de la fraction à risques de l'intérêt du contribuable dans la société à la fin de l'exercice

sur le total

(ii) de la partie du montant déterminé à l'égard de la société que le paragraphe 127(8) prévoit d'ajouter dans le calcul du crédit d'impôt à l'investissement du contribuable pour l'année,

(iii) de la part, dont le contribuable est tenu, des pertes de la société résultant d'une entreprise agricole pour l'exercice,

(iv) de la part attribuable au contribuable des frais d'exploration et d'aménagement à l'étranger, frais d'exploration au Canada, frais d'aménagement au Canada et frais à l'égard de biens canadiens relatifs au pétrole et au gaz, éventuellement engagés par la société au cours de l'exercice,

est à la fois :

c) non admis en déduction dans le calcul de son revenu pour l'année,

d) exclu du calcul de sa perte autre qu'une perte en capital pour l'année,

e) réputé être la perte comme commanditaire ou assimilé subie par le contribuable dans la société pour l'année.

(2.2) Pour l'application du présent article et des articles 111 et 127, la fraction à risques de l'intérêt d'un contribuable dans une société dont il est commanditaire ou assimilé à une date donnée correspond à l'excédent éventuel du total :

a) du prix de base rajusté, pour le contribuable, de son intérêt dans la société à cette date donnée, calculé conformément au paragraphe (2.3) s'il est applicable, et

b) si cette date donnée est la dernière de l'exercice financier de la société, de la part qui revient au contribuable du

Fraction à risques d'un intérêt dans une société

period computed under the method described in subparagraph 53(1)(e)(i) exceeds the aggregate of

(c) the aggregate of all amounts each of which is an amount owing at that time to the partnership or to a person or partnership with whom the partnership does not deal at arm's length by the taxpayer or by a person with whom the taxpayer does not deal at arm's length, 10 and

(d) where the taxpayer or a person with whom the taxpayer does not deal at arm's length is entitled, either immediately or in the future, either absolutely 15 or contingently, to receive or obtain any amount or benefit, whether by way of reimbursement, compensation, revenue guarantee or proceeds of disposition or in any other form or manner whatever, 20 granted or to be granted for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain by virtue of his being a member of the partnership or by virtue of his 25 holding or disposing of his partnership interest, the amount or benefit, as the case may be, that the taxpayer or the person is or will be so entitled to receive or obtain, except to the extent that the 30 entitlement arises

(i) by virtue of a contract of insurance with an insurance corporation dealing at arm's length with each member of the partnership under 35 which the taxpayer is insured against any claim arising as a result of a liability incurred in the ordinary course of carrying on the partnership business, 40

(ii) by virtue of a prescribed revenue guarantee in respect of a prescribed film production,

(iii) as a consequence of the death of the taxpayer, 45

(iv) by virtue of an agreement under which the taxpayer may dispose of the partnership interest for an amount not exceeding its fair market value, determined without reference to the agree- 50 ment, at the time of the disposition,

revenu de la société provenant d'une source donnée pour l'exercice et calculé de la même façon qu'au sous-alinéa 53(1)e)(i)

sur le total des montants suivants : 5

c) le total des montants dont chacun représente un montant dû, à cette date donnée, à la société ou à une personne ou société avec qui la société a un lien de dépendance par le contribuable ou 10 par une personne avec qui celui-ci a un lien de dépendance,

d) le montant ou l'avantage, selon le cas, que le contribuable ou une personne avec qui il a un lien de dépendance a le 15 droit immédiat ou futur, absolu ou conditionnel, de recevoir — sous forme de remboursement, compensation, garantie de recettes, produit de disposition ou autre — et qui est accordé en vue de 20 supprimer ou réduire l'effet d'une perte dont le contribuable serait tenu en tant qu'associé de la société ou du fait qu'il a un intérêt dans la société ou qu'il en dispose, sauf si ce droit résulte : 25

(i) d'un contrat d'assurance avec une corporation d'assurance qui n'a de lien de dépendance avec aucun associé de la société, et par lequel le contribuable est assuré contre toute récla- 30 mation pouvant découler d'une obligation dans le cours normal des affaires de la société,

(ii) d'une garantie de recettes visée par règlement relative à une produc- 35 tion cinématographique visée par règlement,

(iii) du décès du contribuable,

(iv) d'une convention permettant au contribuable de disposer de son inté- 40 rêt dans la société pour un montant qui ne dépasse pas sa juste valeur marchande — déterminée indépendamment de la convention — à la date de la disposition, 45

(v) d'une garantie de recettes ou autre convention par laquelle les recettes brutes sont gagnées par la société, sauf dans la mesure où il est raisonnable de considérer que cette 50 garantie ou convention assure au con-

(v) by virtue of a revenue guarantee or other agreement in respect of which gross revenue is earned by the partnership except to the extent that the revenue guarantee or other agree- 5
ment may reasonably be considered to ensure that the taxpayer or person will receive a return of a portion of the taxpayer's investment, or

(vi) in respect of an amount not 10
included in the at-risk amount of the taxpayer determined without reference to this paragraph,

and, for the purposes of this subsection, where the amount or benefit to which the 15
taxpayer is at any time entitled is provided

(e) by way of an agreement or other arrangement under which the taxpayer has a right, either absolutely or contin- 20
gently (otherwise than as a consequence of the death of the taxpayer), to acquire other property in exchange for all or any part of the partnership interest, for greater certainty the amount or benefit to which the taxpayer is entitled under 25
the agreement or arrangement shall be not less than the fair market value of that other property at that time, or

(f) by way of a guarantee, security or similar indemnity or covenant in respect 30
of any loan or other obligation of the taxpayer, by the partnership or a person or partnership with whom the partnership does not deal at arm's length, for greater certainty the amount or benefit 35
to which the taxpayer is entitled under the guarantee or indemnity at any particular time shall not be less than the aggregate of the unpaid amount of the loan or obligation at that time and all 40
other amounts outstanding in respect of the loan or obligation at that time.

(2.3) For the purposes of subsection (2.2), where a taxpayer has acquired his partnership interest at any time from a 45
transferor other than the partnership, the adjusted cost base to the taxpayer of that interest shall be computed as if the cost to him of the interest were the lesser of

tribuable ou à cette personne la réception d'un gain sur une partie de l'investissement du contribuable, ou
(vi) d'un montant non compris dans la fraction à risques de l'intérêt du 5
contribuable calculée sans tenir compte du présent alinéa.

Pour l'application du présent paragraphe : d'une part, il est entendu que le montant ou l'avantage auquel le contribuable a 10
droit à une date donnée et qui est prévu par une convention ou un autre mécanisme par lesquels le contribuable a le droit absolu ou conditionnel — sauf par suite de son décès — d'acquérir un autre bien en 15
échange de tout ou partie de son intérêt dans la société, doit être au moins égal à la juste valeur marchande de cet autre bien à cette date; d'autre part, il est entendu que le montant ou l'avantage auquel le contri- 20
buable a droit à une date donnée et qui est prévu par garantie ou sûreté ou par un dédommagement ou accord analogue sur un prêt ou sur une autre obligation du contribuable, par la société ou par une 25
personne ou société avec qui la société a un lien de dépendance, doit être au moins égal au total du montant impayé du prêt ou de l'obligation à cette date et de tous autres montants non remboursés sur le prêt ou 30
l'obligation à cette date.

(2.3) Pour l'application du paragraphe (2.2), le prix de base rajusté d'un intérêt dans une société pour le contribuable qui, à une date donnée, acquiert cet intérêt 35
d'un autre cédant que la société est calculé en supposant que le coût de cet intérêt est pour le contribuable le moindre :

Prix de base
rajusté de
l'intérêt dans la
société

Limited partner

Commanditaire
ou assimilé

(a) his cost otherwise determined, and
(b) the greater of
 (i) the adjusted cost base of that interest to the transferor immediately before that time, and
 (ii) nil,
and where the adjusted cost base of the transferor cannot be determined, it shall be deemed to be equal to the aggregate of the amounts determined in respect of the taxpayer under paragraphs (2.2)(c) and (d) immediately after that time.

(2.4) For the purposes of this section and sections 111 and 127, a taxpayer who is a member of a partnership at a particular time is a limited partner of that partnership at that time if his partnership interest is not an exempt interest at that time (within the meaning assigned by subsection (2.5)) and if, at that time or within three years after that time,
(a) by operation of any law which governs the partnership arrangement, the liability of the taxpayer in his capacity as a member of the partnership, is limited;
(b) the taxpayer or a person with whom the taxpayer does not deal at arm's length is entitled to receive an amount or obtain a benefit described in paragraph (2.2)(d);
(c) one of the reasons for the existence of the taxpayer who owns the interest
 (i) may reasonably be considered to be to limit the liability of any other person with respect to that interest, and
 (ii) may not reasonably be considered to be to permit any person who has an interest in the taxpayer to carry on his business (other than an investment business) in the most effective manner; or
(d) there is an agreement or other arrangement for the disposition of an interest in the partnership and one of the main reasons for the agreement or arrangement may reasonably be considered to be to attempt to avoid the

a) de son coût déterminé par ailleurs pour le contribuable, ou
b) du plus élevé de son prix de base rajusté pour le cédant immédiatement avant cette date ou de zéro.
Le prix de base rajusté pour le cédant, s'il ne peut être déterminé, est réputé égal au total des montants visés aux alinéas (2.2)c) et d) déterminé pour le contribuable immédiatement après cette date.

(2.4) Pour l'application du présent article et des articles 111 et 127, le contribuable qui est, à une date donnée, associé commanditaire d'une société en commandite ou associé d'une autre société de personnes est commanditaire ou assimilé de cette société si son intérêt dans celle-ci n'est pas, à cette date, un intérêt exonéré au sens du paragraphe (2.5) et si, à cette date ou dans les trois ans suivants,
a) sa responsabilité comme associé est limitée par la loi qui régit le contrat de société;
b) le contribuable ou une personne avec qui il a un lien de dépendance a droit de recevoir un montant ou avantage visé à l'alinéa (2.2)d);
c) il est raisonnable de considérer que le contribuable qui a l'intérêt en question existe, entre autres,
 (i) pour limiter la responsabilité d'une autre personne, liée à cet intérêt, et
 (ii) non pour permettre à une personne qui a un intérêt chez le contribuable d'exploiter son entreprise — à l'exclusion d'une entreprise de placements — de la manière la plus efficace; ou
d) il existe une convention ou un autre mécanisme prévoyant la disposition d'un intérêt dans la société et dont il est raisonnable de considérer qu'un des principaux objets consiste à tenter de soustraire le contribuable à l'application du présent paragraphe.

application of this subsection to the taxpayer.

Exempt interest

(2.5) For the purposes of subsection (2.4), an exempt interest in a partnership at any time means a prescribed partnership interest or an interest in a partnership that was actively carrying on business on a regular and a continuous basis immediately before February 26, 1986 and continuously thereafter until that time or that was earning income from the rental or leasing of property immediately before February 26, 1986 and continuously thereafter until that time, where there has not after February 25, 1986 and before that time been a substantial contribution of capital to the partnership or a substantial increase in the indebtedness of the partnership and, for this purpose, an amount will not be considered to be substantial where

(a) the amount was used by the partnership to make an expenditure required to be made pursuant to the terms of a written agreement entered into by it before February 26, 1986, or to repay a loan, debt or contribution of capital that had been received or incurred in respect of any such expenditure,

(b) the amount was raised pursuant to the terms of a prospectus, preliminary prospectus or registration statement filed before February 26, 1986 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province, and, where required by law, accepted for filing by such public authority, or

(c) the amount was used for the activity that was carried on by the partnership on February 25, 1986 but was not used for a significant expansion of the activity

and, for the purposes of this subsection,

(d) a partnership in respect of which paragraph (b) applies shall be considered to have been actively carrying on a business on a regular and a continuous basis immediately before February 26, 1986 and continuously thereafter until the earlier of the closing date, if any,

(2.5) Pour l'application du paragraphe (2.4), un intérêt exonéré dans une société à une date donnée est un intérêt dans une société visé par règlement ou un intérêt dans une société qui, immédiatement avant le 26 février 1986, exploitait activement une entreprise sur une base régulière et continue ou tirait un revenu de la location d'un bien, et a continué de faire l'un ou l'autre jusqu'à la date donnée, à condition qu'il n'y ait eu après le 25 février 1986 et avant la date donnée ni apport important de capital à la société ni augmentation importante de la dette de la société; à cette fin, le montant d'un apport ou d'une dette n'est pas considéré comme important :

a) si la société s'en est servie pour faire une dépense qu'elle s'est obligée à faire par une convention écrite conclue avant le 26 février 1986 ou pour rembourser un prêt ou une dette contracté ou un apport de capital reçu en vue de faire la dépense;

b) s'il y a été fait appel conformément à un prospectus, un prospectus provisoire ou une déclaration d'enregistrement, produit avant le 26 février 1986 auprès d'un organisme public au Canada selon la législation fédérale ou provinciale sur les valeurs mobilières applicable et, si la loi le prévoit, approuvé par un tel organisme; ou

c) s'il a servi à l'activité que la société exerçait le 25 février 1986, sauf s'il a servi à un accroissement majeur de cette activité.

Pour l'application du présent paragraphe : d'une part, une société à laquelle l'alinéa

b) s'applique est considérée comme ayant exploité activement une entreprise, immédiatement avant le 26 février 1986, sur une base régulière et continue et comme ayant continué de le faire jusqu'au premier en date du jour de clôture indiqué éventuellement dans le prospectus, le prospectus provisoire ou la déclaration d'enregistrement ou du 1^{er} janvier 1987; d'autre part, une société n'est pas considérée comme s'étant

Intérêt exonéré

Artificial transactions

Idem

stipulated in the document referred to in paragraph (b) and January 1, 1987, and (e) an expenditure shall not be considered to have been required to be made pursuant to the terms of an agreement where the obligation to make the expenditure is conditional in any way on the consequences under this Act relating to the expenditure and the condition has not been satisfied or waived before June 12, 1986.

(2.6) For the purposes of paragraph (2.2)(c), where at any time an amount owing by a taxpayer or a person with whom the taxpayer does not deal at arm's length is repaid and it is established, by subsequent events or otherwise, that the repayment was made as part of a series of loans or other transactions and repayments, the amount owing shall be deemed not to have been repaid.

(2.7) For the purposes of paragraph (2.2)(a), where at any time a taxpayer makes a contribution of capital to a partnership and the partnership or a person or partnership with whom the partnership does not deal at arm's length makes a loan to the taxpayer or to a person with whom the taxpayer does not deal at arm's length or repays the contribution of capital, and it is established, by subsequent events or otherwise, that the loan or repayment, as the case may be, was made as part of a series of loans or other transactions and repayments, the contribution of capital shall be deemed not to have been made to the extent of the loan or repayment, as the case may be."

(2) Subsection (1) is applicable after February 25, 1986 except that, in its application to partnership interests acquired before 1987 pursuant to

(a) a prospectus, preliminary prospectus, registration statement or offering memorandum filed before June 12, 1986 and, where required by law, accepted for filing by a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province,

obligée à faire une dépense par une convention si l'obligation est assortie d'une condition quant aux conséquences découlant de la présente loi en ce qui concerne cette dépense et si cette condition ne s'est pas réalisée avant le 12 juin 1986 ou il n'y a pas été renoncé avant le 12 juin 1986.

(2.6) Pour l'application de l'alinéa (2.2)c), le montant dû par un contribuable ou par une personne avec qui celui-ci a un lien de dépendance qui est remboursé à une date quelconque est réputé ne pas être remboursé si, à cause d'événements subséquents ou autrement, il est établi que ce remboursement fait partie d'une série de prêts ou d'autres opérations et remboursements.

(2.7) Pour l'application de l'alinéa (2.2)a), en cas d'apport de capital à une date quelconque par un contribuable à une société, si la société ou une personne ou société avec qui la société a un lien de dépendance consent un prêt au contribuable ou à une personne avec qui celui-ci a un lien de dépendance ou rembourse l'apport de capital et s'il est établi, par des événements subséquents ou autrement, que le prêt ou le remboursement, selon le cas, fait partie d'une série de prêts ou d'autres opérations et remboursements, cet apport de capital est réputé ne pas avoir été fait à concurrence du montant prêté ou remboursé.»

(2) Le paragraphe (1) s'applique après le 25 février 1986. Toutefois, les mots «en vue de supprimer ou réduire l'effet d'une perte dont le contribuable serait tenu», à l'alinéa 96(2.2)d) de la même loi, édicté par le paragraphe (1), sont remplacés par les mots «conformément à un engagement, pris par une personne ou par une société, d'indemniser le contribuable des conséquences éventuelles de sa responsabilité», s'il s'agit d'appliquer le paragraphe (1) à un intérêt dans une société acquis avant 1987 :

Opération factice

Idem

(b) an offering memorandum or similar offering material in respect of which solicitations were made to prospective purchasers after February 25, 1986 and before June 12, 1986 and which was, where required by law, filed with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province,

(c) an issue of partnership interests, in a partnership formed for the purpose of producing a film production, that is prescribed for the purposes of subparagraph 92(2.2)(d)(ii) of the said Act as enacted by subsection (1), where the partnership is obliged to make expenditures in respect of the production of the film pursuant to an agreement in writing entered into by it or on its behalf before June 12, 1986, or

(d) an issue of interests in a partnership formed before June 12, 1986 for the purpose of acquiring a film production, that is prescribed for the purposes of subparagraph 92(2.2)(d)(ii) of the said Act as enacted by subsection (1), from a producer who produced the film for the purpose, as evidenced in writing before June 12, 1986, of its sale to the partnership, where the producer is obliged to make expenditures in respect of the film pursuant to an agreement in writing entered into by him before June 12, 1986,

the words "for the purpose of reducing the impact, in whole or in part, of any loss that the taxpayer may sustain" in paragraph 96(2.2)(d) of the said Act as enacted by subsection (1) shall be read as "pursuant to an undertaking, made by any person or partnership, to indemnify the taxpayer with respect to any liability that the taxpayer may incur".

27. (1) Subparagraph 98(3)(b)(ii) of the said Act is repealed and the following substituted therefor:

"(ii) where the amount determined under subparagraph (a)(i) exceeds the amount determined under subparagraph (a)(ii), the amount determined under paragraph (c) in respect

a) conformément à un prospectus, un prospectus provisoire, une déclaration d'enregistrement ou une notice d'offre, produit avant le 12 juin 1986 auprès d'un organisme public au Canada selon la législation fédérale ou provinciale sur les valeurs mobilières applicable et, si la loi le prévoit, approuvé par un tel organisme;

b) conformément à une notice d'offre ou à un document analogue à partir desquels une offre est faite à des acheteurs éventuels après le 25 février 1986 et avant le 12 juin 1986 et produit, si la loi le prévoit, auprès d'un organisme public au Canada selon la législation fédérale ou provinciale sur les valeurs mobilières applicable;

c) dans le cadre d'une émission de participations dans une société constituée en vue de produire une production cinématographique — visée par règlement pour l'application du sous-alinéa 92(2.2)d)(ii) de la même loi édicté par le paragraphe (1) — si la société s'est obligée à faire une dépense pour cette production par convention écrite conclue par elle ou en son nom avant le 12 juin 1986; ou

d) dans le cadre d'une émission de participations dans une société constituée avant le 12 juin 1986 en vue d'acquérir une production cinématographique — visée par règlement pour l'application du sous-alinéa 92(2.2)d)(ii) de la même loi édicté par le paragraphe (1) — d'un producteur qui l'a faite en vue, sur preuve écrite antérieure au 12 juin 1986, de la vendre à la société si le producteur s'est obligé à faire une dépense en ce qui concerne cette production par convention écrite conclue par lui avant le 12 juin 1986.

27. (1) Le sous-alinéa 98(3)b)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) lorsque le montant déterminé en vertu du sous-alinéa a)(i) dépasse le montant déterminé en vertu du sous-alinéa a)(ii), le montant déterminé en vertu de l'alinéa c) relativement à sa participation indivise dans ces biens;»

of his undivided interest in the property;”

(2) Paragraph 98(3)(d) of the said Act is repealed.

(3) Subparagraph 98(5)(b)(ii) of the said Act is repealed and the following substituted therefor:

“(ii) where the amount determined under subparagraph (a)(i) exceeds the amount determined under subparagraph (a)(ii), the amount determined under paragraph (c) in respect of the property;”

(4) Paragraph 98(5)(d) of the said Act is repealed.

(5) Subsections (1) to (4) are applicable with respect to property received by a member of a partnership where

(a) the property was acquired by the partnership after December 4, 1985, otherwise than pursuant to an agreement in writing entered into before that date;

(b) the property is received in satisfaction of an interest in the partnership acquired by the member after December 4, 1985, otherwise than

(i) pursuant to an agreement in writing entered into on or before that date, or

(ii) from a person with whom the member was not dealing at arm’s length, where the interest in the partnership has not been acquired in an arm’s length transaction after December 4, 1985, otherwise than pursuant to an agreement in writing entered into on or before that date; or

(c) the property is received in satisfaction of an interest in the partnership that was owned by a corporation at a time when control thereof was acquired (otherwise than by virtue of an acquisition described in paragraph 256(7)(a) of the said Act) after December 4, 1985, otherwise than pursuant to an agreement in writing entered into on or before that date,

and, for the purposes of subparagraph (b)(ii), the references to “arm’s length” shall

(2) L’alinéa 98(3)d) de la même loi est abrogé.

(3) Le sous-alinéa 98(5)b)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) lorsque la somme déterminée en vertu du sous-alinéa a)(i) dépasse la somme déterminée en vertu du sous-alinéa a)(ii), la somme déterminée en vertu de l’alinéa c) relativement aux biens;»

(4) L’alinéa 98(5)d) de la même loi est abrogé.

(5) Les paragraphes (1) à (4) s’appliquent aux biens reçus par une personne qui était membre d’une société, à condition :

a) qu’ils aient été acquis par la société après le 4 décembre 1985 autrement que conformément à une convention écrite conclue avant le 4 décembre 1985;

b) qu’ils soient reçus en paiement d’une participation dans la société que le membre a acquise après le 4 décembre 1985 autrement que :

(i) conformément à une convention écrite conclue avant le 5 décembre 1985, 25 ou

(ii) d’une personne avec qui le membre avait un lien de dépendance, lorsque la participation dans la société a été acquise dans le cadre d’une opération avec lien de dépendance après le 4 décembre 1985 autrement que conformément à une convention écrite conclue avant le 5 décembre 1985; ou

c) qu’ils soient reçus en paiement d’une participation dans la société, qu’une corporation avait à la date, postérieure au 4 décembre 1985, où le contrôle de la corporation a été acquis — sauf s’il l’a été par suite d’une acquisition visée à l’alinéa 256(7)a) de la même loi — autrement que conformément à une convention écrite conclue avant le 5 décembre 1985.

be interpreted as though the said Act were read without reference to paragraph 251(5)(b) thereof.

28. (1) Section 102 of the said Act is repealed and the following substituted therefor:

Interpretation

"Canadian partnership"
«société canadienne»

«102. In this subdivision,

(a) "Canadian partnership" means a partnership all of the members of which were, at any time in respect of which the 10 expression is relevant, resident in Canada, and

(b) a reference to a person or a taxpayer who is a member of a particular partnership shall include a reference to 15 another partnership that is a member of the particular partnership."

(2) Subsection (1) is applicable after February 25, 1986.

29. (1) Section 104 of the said Act is 20 amended by adding thereto, immediately after subsection (7) thereof, the following subsections:

Capital interest
greater than
income interest

"(7.1) Where it is reasonable to consider that one of the main purposes for the 25 existence of any term, condition, right or other attribute of an interest in a trust (other than a testamentary trust or a trust no beneficial interest in which was acquired for consideration payable directly 30 or indirectly to the trust or to any person who has made a contribution to the trust by way of transfer, assignment or other disposition of property) is to give a beneficiary a percentage interest in the 35 property of the trust that is greater than his percentage interest in the income of the trust, no amount may be deducted under paragraph (6)(b) in computing the income of the trust. 40

Avoidance of
subsection (7.1)

(7.2) Notwithstanding any other provision of this Act, where

(a) a taxpayer has acquired a right to or to acquire an interest in a trust, or a right to or to acquire a property of a 45 trust, and

Pour l'application du sous-alinéa b)(ii), le sens de l'expression «lien de dépendance» est déterminé sans égard à l'alinéa 251(5)b).

28. (1) L'article 102 de la même loi est 5 abrogé et remplacé par ce qui suit :

«102. Dans la présente sous-section :

a) une société canadienne est une société dont tous les associés résident au Canada à la date considérée;

b) une personne ou un contribuable qui 10 est associé (appelé aussi membre et y compris un associé commanditaire) d'une société comprend une société.»

(2) Le paragraphe (1) s'applique après le 25 février 1986. 15

29. (1) L'article 104 de la même loi est modifié par insertion, après le paragraphe (7), de ce qui suit :

«(7.1) Aucun montant n'est déductible selon l'alinéa (6)b) dans le calcul du 20 revenu d'une fiducie s'il est raisonnable de considérer qu'un des principaux objets d'une condition, d'un droit ou d'une autre caractéristique attaché à une participation dans la fiducie est de donner à un bénéfi- 25 ciaire une quote-part des biens de la fiducie qui soit supérieure à sa quote-part du revenu de la fiducie. Le présent paragraphe ne vise ni une fiducie testamentaire ni une fiducie dont les participations sont 30 acquises sans contrepartie payable directement ou indirectement à la fiducie ou à une personne qui fournit un apport à celle-ci sous forme de transfert, cession ou autre disposition de biens. 35

(7.2) Nonobstant les autres dispositions de la présente loi, dans le cas

a) où un contribuable a acquis un droit à une participation dans une fiducie ou à un bien d'une fiducie ou le droit d'ac- 40 quérir une telle participation ou un tel bien, et

Société
canadienne et
associés

Déduction non
admise

Règle
anti-évitement

	<p>(b) it is reasonable to consider that one of the main purposes of the acquisition was to avoid the application of subsection (7.1) in respect of the trust, on a disposition of the right (other than pursuant to the exercise thereof), the interest or the property, there shall be included in computing the income of the taxpayer for the taxation year in which the disposition occurs the amount, if any, by which</p> <p>(c) the proceeds of disposition of the right, interest or property, as the case may be, exceeds</p> <p>(d) the cost amount to the taxpayer of the right, interest or property, as the case may be.”</p>	<p>b) où il est raisonnable de considérer qu’un des principaux objets de cette acquisition consistait à soustraire la fiducie à l’application du paragraphe (7.1),</p> <p>doit être ajouté, dans le calcul du revenu du contribuable pour l’année d’imposition au cours de laquelle celui-ci dispose du droit (sans l’exercer), de la participation ou du bien, l’excédent éventuel du produit de disposition du droit, de la participation ou du bien, selon le cas, sur son coût indiqué pour le contribuable.»</p>	
	<p>(2) All that portion of subsection 104(17.1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:</p>	<p>(2) Le passage du paragraphe 104(17.1) de la même loi qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :</p>	
Determination, etc., ineffective	<p>“(17.1) No effect shall be given to a determination or designation under subsection (16) or (17) or 127(7) or (15) by a testamentary trust or a trust no beneficial interest in which was acquired for consideration payable directly or indirectly to the trust or to any person who has made a contribution to the trust by way of transfer, assignment or other disposition of property in respect of a taxation year of the trust if, as a result of such determination or designation, the amount that any beneficiary of the trust is entitled to deduct in computing his income under regulations made under paragraph 20(1)(a) or subsection 65(1) or to add in computing his investment tax credit or employment tax credit (within the meaning assigned by subsection 127(16)) for any period during which he is beneficially interested in the trust is greater than the proportion of the aggregate of amounts available to be so determined or designated by the trust in respect of the period that”</p>	<p>«(17.1) Le paragraphe (16) ou (17) ou 127(7) ou (15) n’a aucun effet, en ce qui concerne le montant qu’une fiducie testamentaire — ou une fiducie dont les participations sont acquises sans contrepartie payable directement ou indirectement à la fiducie ou à une personne qui fournit un apport à celle-ci sous forme de transfert, cession ou autre disposition de biens — attribue à un bénéficiaire, ou détermine ou désigne à son égard, pour une année d’imposition de la fiducie, si le montant que tout bénéficiaire a le droit de déduire dans le calcul de son revenu en vertu d’un règlement pris en application de l’alinéa 20(1)a) ou du paragraphe 65(1) ou d’ajouter dans le calcul de son crédit d’impôt à l’investissement ou de son crédit d’impôt à l’emploi au sens du paragraphe 127(16) pour toute période où il est bénéficiaire de la fiducie est supérieur au produit du total des montants que la fiducie peut attribuer, déterminer ou désigner ainsi pour la période par le rapport entre»</p>	Effet limité de certains paragraphes
	<p>(3) Section 104 of the said Act is further amended by adding thereto, immediately</p>	<p>(3) L’article 104 de la même loi est modifié par insertion, après le paragraphe (17.1), de ce qui suit :</p>	

after subsection (17.1) thereof, the following subsection:

Idem

“(17.2) No effect shall be given to a determination or designation under subsection (16) or (17) by a trust (other than a trust described in subsection (17.1)) in respect of a taxation year of the trust unless an amount is so determined or designated in respect of the year for each beneficiary of the trust and the amount in respect of each such beneficiary is equal to the proportion of the aggregate of amounts that the trust so determines or designates for all beneficiaries in respect of the year, that

(a) the beneficiary's share of the amount that would be the income of the trust for the year if no deduction were made under subsection (6), (12) or 20(16) or under regulations made under paragraph 20(1)(a) or subsection 65(1) for the taxation year

is of

(b) the amount that would be the income of the trust for the year if no deduction were made under subsection (6), (12) or 20(16) or under regulations made under paragraph 20(1)(a) or subsection 65(1) for the taxation year.”

(4) Subsection 104(7.1) of the said Act, as enacted by subsection (1), is applicable to the 1986 and subsequent taxation years of a trust, other than a trust created before November 27, 1985, in which no beneficial interest is issued after 5:00 p.m. Eastern Standard Time on November 26, 1985 (unless the interest is issued on account of a distribution of the income of the trust in accordance with the terms of the trust in effect on November 26, 1985).

(5) Subsection (2) is applicable with respect to determinations and designations made by a trust in respect of the 1987 and subsequent taxation years.

(6) Subsection (3) is applicable

(a) with respect to determinations and designations made in respect of the 1987

«(17.2) Le paragraphe (16) ou (17) n'a d'effet, en ce qui concerne le montant qu'une fiducie non visée au paragraphe (17.1) attribue à chaque bénéficiaire, ou détermine ou désigne à son égard, pour une année d'imposition de la fiducie, que si ce montant est égal au produit du total des montants que la fiducie attribue à tous ses bénéficiaires, ou détermine ou désigne à leur égard, pour l'année par le rapport entre :

a) la part revenant au bénéficiaire de ce que serait le revenu de la fiducie pour l'année si aucune déduction n'était faite en vertu du paragraphe (6), (12) ou 20(16) ou d'un règlement pris en application de l'alinéa 20(1)a) ou du paragraphe 65(1),

et

b) ce que serait le revenu de la fiducie pour l'année si aucune de ces déductions n'était faite.»

(4) Le paragraphe 104(7.1) de la même loi, édicté par le paragraphe (1), s'applique aux années d'imposition 1986 et suivantes d'une fiducie, à l'exclusion d'une fiducie constituée avant le 27 novembre 1985 et dans laquelle aucune participation n'est émise après 17 heures, heure normale de l'Est, le 26 novembre 1985 — sauf s'il s'agit d'une participation émise dans le cadre d'une distribution du revenu de la fiducie conformément aux termes, en vigueur le 26 novembre 1985, de l'acte de fiducie —.

(5) Le paragraphe (2) s'applique aux montants qu'une fiducie attribue, détermine ou désigne pour les années d'imposition 1987 et suivantes.

(6) Le paragraphe (3) s'applique :

a) aux montants qu'une fiducie constituée après le 26 novembre 1985 attribue, déter-

Idem

and subsequent taxation years by a trust created after November 26, 1985; and

(b) where a trust created before November 27, 1985 issues a beneficial interest after 5:00 p.m. Eastern Standard Time on November 26, 1985 (other than an interest issued on account of a distribution of income of the trust in accordance with the terms of the trust in effect on November 26, 1985), with respect to determinations and designations made in respect of any taxation year that is after the 1986 taxation year and that is a taxation year in which or after which it issued such a beneficial interest.

30. (1) All that portion of subsection 106(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Income interest in trust
 «106. (1) Where an amount in respect of a taxpayer's income interest in a trust has been included in computing his income for a taxation year by virtue of subsection (2) or 104(13), except to the extent that an amount in respect thereof has been deducted in computing the taxpayer's taxable income pursuant to subsection 112(1), 110.1(1) or 138(6), there may be deducted in computing his income for the year the lesser of»

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years with respect to income interests in trusts acquired after 5:00 p.m. Eastern Standard Time on November 26, 1985.

31. (1) Subparagraph 109(1)(a)(ii) of the said Act is repealed and the following substituted therefor:

«(ii) \$1,400 less the amount, if any, by which the spouse's income for the year or, where the individual was living apart from his spouse at the end of the year by reason of a breakdown of their marriage, the spouse's income for the year while married, exceeds \$200;»

mine ou désigne pour les années d'imposition 1987 et suivantes; et

b) aux montants qu'une fiducie constituée avant le 27 novembre 1985 et qui émet une participation après 17 heures, heure normale de l'Est, le 26 novembre 1985 — sauf s'il s'agit d'une participation émise dans le cadre d'une distribution du revenu de la fiducie conformément aux termes, en vigueur le 26 novembre 1985, de l'acte de fiducie — attribue, détermine ou désigne pour une année d'imposition postérieure à l'année d'imposition 1986 et dans laquelle, ou après laquelle, la participation est émise.

30. (1) Le passage du paragraphe 106(1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

Participation au revenu d'une fiducie
 «106. (1) Lorsqu'une somme relative à la participation d'un contribuable au revenu d'une fiducie est incluse en vertu du paragraphe (2) ou 104(13) dans le calcul du revenu de ce contribuable pour une année d'imposition, la moins élevée des deux sommes suivantes est déductible dans ce calcul, sauf dans la mesure où une somme relative à cette participation est déjà déduite dans le calcul du revenu imposable du contribuable conformément au paragraphe 112(1), 110.1(1) ou 138(6) :»

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes, en ce qui concerne les participations au revenu d'une fiducie acquises après 17 heures, heure normale de l'Est, le 26 novembre 1985.

31. (1) Le sous-alinéa 109(1)a)(ii) de la même loi est abrogé et remplacé par ce qui suit :

«(ii) 1 400 \$ moins l'excédent éventuel du revenu du conjoint pour l'année ou, si le particulier et son conjoint vivaient séparément à la fin de l'année pour cause d'échec du mariage, du revenu du conjoint pour l'année pendant le mariage, sur 200 \$;»

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

32. (1) Subparagraph 110(1)(c)(iv) of the said Act is repealed and the following substituted therefor:

32. (1) Le sous-alinéa 110(1)c)(iv) de la même loi est abrogé et remplacé par ce qui 5 suit :

“(iv) as remuneration for one full-time attendant upon, or for the full-time care in a nursing home of, a person who is the taxpayer, his spouse or any such dependant and who has a 10 severe and prolonged mental or physical impairment that is certified as such in prescribed form by a medical doctor licensed to practise under the laws of a province of Canada or of the 15 place where the person resides,”

«(iv) à titre de rémunération d'un préposé à plein temps ou de frais dans une maison de santé ou de repos pour le séjour à plein temps d'une personne qui est le contribuable, son conjoint 10 ou une personne à charge susvisée et qu'un médecin titulaire d'un permis d'exercice conforme à la législation provinciale applicable au Canada ou à celle de là où la personne réside 15 atteste, sur formulaire prescrit, avoir une déficience mentale ou physique grave et prolongée.»

(2) Paragraph 110(1)(e) of the said Act is repealed and the following substituted therefor:

(2) L'alinéa 110(1)e) de la même loi est abrogé et remplacé par ce qui suit : 20

“(e) \$2,860 if 20

«e) 2 860 \$,

(i) the taxpayer has a severe and prolonged mental or physical impairment that has been certified as such in prescribed form by a medical doctor licensed to practise under the laws of a 25 province of Canada or of the place where the taxpayer resides,

(i) si un médecin titulaire d'un permis d'exercice conforme à la législation provinciale applicable au Canada ou à celle de là où le contribuable réside atteste, sur formulaire prescrit, que le contribuable a une déficience mentale ou physique grave et prolongée,

(ii) the taxpayer has filed with the Minister the form prescribed for the purposes of subparagraph (i), and 30

(ii) si le contribuable produit au 30 ministre le formulaire visé au sous-alinéa (i), et

(iii) no amount in respect of remuneration for an attendant, or care in a nursing home, by reason of the mental or physical impairment of the taxpayer is included by the taxpayer or any 35 other person in calculating a deduction for medical expenses under this section for the year;”

(iii) si aucun montant représentant une rémunération versée à un préposé ou des frais de séjour dans une maison 35 de santé ou de repos, à cause de cette déficience, n'est inclus par le contribuable ou par une autre personne dans le calcul d'une déduction pour frais médicaux en vertu du présent 40 article pour l'année;»

(3) All that portion of paragraph 110(1)(e.1) of the said Act following sub- 40 paragraph (ii) thereof is repealed and the following substituted therefor :

(3) Le passage de l'alinéa 110(1)e.1) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

“or could have claimed such a deduction had that person no income for the year and where no amount in respect of 45

«e.1) l'excédent éventuel de 2 860 \$ sur 45 le revenu imposable pour l'année (calculé sans tenir compte de l'alinéa e))

Mental or
physical
impairment

Déficience
grave et
prolongée

Déficience
d'une personne
à charge

Nature of
impairment

remuneration for an attendant, or care in a nursing home, by reason of that person's mental or physical impairment, has been deducted under this section for the year by the taxpayer or any other person, the amount, if any, by which \$2,860 exceeds that person's taxable income for the year (computed before making any deduction under paragraph (e));"	d'une personne qui réside au Canada à une date quelconque de l'année et qui avait droit à la déduction prévue à l'alinéa e) pour l'année, lorsque le contribuable a demandé pour l'année à l'égard de cette personne l'une ou l'autre des déductions suivantes ou aurait pu le faire si cette personne n'avait eu aucun revenu pour l'année, et que le contribuable ou une autre personne n'a déduit en vertu du présent article pour l'année aucun montant représentant une rémunération versée à un préposé ou des frais de séjour dans une maison de santé ou de repos à cause de la déficience mentale ou physique de cette personne :»
(4) Subsection 110(1.3) of the said Act is repealed and the following substituted therefor:	(4) Le paragraphe 110(1.3) de la même loi est abrogé et remplacé par ce qui suit :
"(1.3) For the purposes of paragraphs (1)(c) and (e), (a) a person shall be considered to have a severe and prolonged impairment only if by reason thereof he is markedly restricted in his activities of daily living and the impairment has lasted or can reasonably be expected to last for a continuous period of at least 12 months; and (b) the Minister may obtain the advice of the Department of National Health and Welfare as to whether a person has a severe and prolonged impairment."	«(1.3) Pour l'application des alinéas (1)c) et e) : (a) une personne n'est considérée comme ayant une déficience grave et prolongée que si, à cause de celle-ci, elle se trouve manifestement limitée dans ses activités de vie quotidienne et que si cette déficience dure au moins 12 mois d'affilée ou s'il est raisonnable de s'attendre à ce qu'elle dure cette période; b) le ministre peut obtenir l'avis du ministère de la Santé et du Bien-être social pour établir si une personne a une déficience grave et prolongée.»
(5) Subsections (1) to (4) are applicable to the 1986 and subsequent taxation years.	(5) Les paragraphes (1) à (4) s'appliquent aux années d'imposition 1986 et suivantes.
33. (1) Paragraph 110.2(4)(g) of the said Act is repealed and the following substituted therefor: "(g) a payment received out of or under a salary deferral arrangement in respect of a taxpayer, an employee benefit plan or an employee trust."	33. (1) L'alinéa 110.2(4)g) de la même loi est abrogé et remplacé par ce qui suit : «g) un paiement reçu dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable ou dans le cadre d'un régime de prestations aux employés ou d'une fiducie d'employés.»
(2) Subsection (1) is applicable after February 25, 1986.	(2) Le paragraphe (1) s'applique après le 25 février 1986.
34. (1) The said Act is further amended by adding thereto, immediately after section 110.6 thereof, the following section:	34. (1) La même loi est modifiée par insertion, après l'article 110.6, de ce qui suit :

Residing in
prescribed area

“110.7 In computing the taxable income for a taxation year of an individual who, throughout a period of not less than 6 months commencing or ending in the year, resided in an area that was a prescribed area for the year or for one of the 2 preceding taxation years and who files a claim in prescribed form with his return of income for the year pursuant to section 150, there may be deducted 10

(a) where the area was a prescribed area for the year, 100%,

(b) where the area was not a prescribed area for the year but was a prescribed area for the immediately preceding taxation year, 2/3, and 15

(c) where the area was not a prescribed area for the year or the immediately preceding taxation year but was a prescribed area for the second preceding taxation year, 1/3 20

of such of the following amounts as are applicable:

(d) an amount received, or the value of a benefit received or enjoyed, in the year 25 by him in respect of his employment in the area by a person with whom he was dealing at arm's length in respect of travelling expenses incurred by him, to the extent that 30

(i) the amount received or the value of the benefit, as the case may be,

(A) does not exceed a prescribed amount,

(B) is included and is not otherwise 35 deducted in computing his income for the year, and

(C) is not included in computing an amount deducted under paragraph 110(1)(c) for the year or any other 40 taxation year, and

(ii) the travelling expenses were incurred in connection with

(A) a trip made in the year for the purpose of obtaining medical services not available in the locality in which he resided, or 45

(B) not more than two trips made in the year for a purpose other than to obtain medical services not avail- 50

«110.7 Dans le calcul du revenu imposable, pour une année d'imposition, du particulier qui, pendant une période d'au moins six mois d'affilée commençant ou se terminant dans l'année, réside dans une région 5 visée par règlement pour cette année ou pour l'une des deux années d'imposition précédentes et qui en fait la demande sur formulaire réglementaire joint à la déclaration du revenu qu'il produit conformément à l'article 150 pour l'année, les montants suivants sont déductibles, dans la mesure où ils sont applicables au particulier, à 100 %, à 66⅓ % ou à 33⅓ % selon que la région était une région visée par 15 règlement pour l'année, pour l'année précédente ou pour la deuxième année précédente :

a) le montant ou la valeur de l'avantage que le particulier reçoit dans l'année au 20 titre de ses frais de déplacement qui ont rapport avec l'emploi qu'il exerce dans la région pour une personne avec qui il n'a aucun lien de dépendance,

(i) dans la mesure où ce montant ou 25 cette valeur

(A) ne dépasse pas le montant prescrit,

(B) est ajouté, et n'est pas par ailleurs déduit, dans le calcul du 30 revenu du particulier pour l'année, et

(C) n'est pas ajouté dans le calcul d'une déduction en vertu de l'alinéa 110(1)(c) pour l'année ou pour une 35 autre année d'imposition, et

(ii) dans la mesure où les frais de déplacement engagés en question concernent

(A) un ou plusieurs voyages effectués au cours de l'année afin d'obtenir des services médicaux qui ne sont pas dispensés dans la localité où le particulier réside, ou 40

(B) au maximum deux voyages 45 effectués au cours de l'année, à une autre fin;

b) le moindre :

(i) de l'excédent éventuel

(A) du produit de 225 \$ par le quo- 50 tient obtenu en divisant par 30 le

Déductions
applicables aux
habitants de
régions
éloignées

able in the locality in which he resided; and

(e) an amount equal to the lesser of

(i) the amount, if any, by which

(A) \$225 multiplied by the quotient 5
obtained when the number of days
in the year included in that portion
of the period throughout which he
resided in the area is divided by 30
(except that, where the quotient so 10
obtained is not a full number, it
shall be rounded to the nearest full
number or, if it is equidistant from
two such consecutive full numbers,
it shall be rounded to the higher 15
thereof)

exceeds

(B) the aggregate of all amounts
each of which

(I) is that portion of the value of, 20
or of an allowance in respect of
expenses incurred by him for, his
board and lodging, that can reason-
ably be considered to be
attributable to the period, and 25

(II) would, but for subsection
6(6), be included in computing
his income for the year, and

(ii) 20% of his income for the year

except that, with respect to any day 30
included in computing the product
determined under clause (i)(A) and on
which he maintained and resided in a
self-contained domestic establishment,
the reference to "\$225" shall be read as 35
a reference to "\$450" unless that day is
included in computing a deduction
claimed by another person who resided
on that day in that establishment."

(2) Subsection (1) is applicable to the 40
1987 and subsequent taxation years.

35. (1) Subsection 111(1) of the said Act
is amended by striking out the word "and" at
the end of paragraph (c) thereof, by adding
the word "and" at the end of paragraph (d) 45
thereof and by adding thereto the following
paragraph:

"(e) his limited partnership losses in
respect of a partnership for taxation

nombre de jours de l'année compris
dans la partie de la période tout au
long de laquelle le particulier réside
dans la région — ce quotient étant 5
arrêté à l'unité, les résultats ayant
au moins cinq en première décimale
étant arrondis à l'unité supé-
rieure —

sur

(B) le total des montants dont 10
chacun représente :

(I) la partie de la valeur des frais
de nourriture et logement enga-
gés par le particulier — ou de
l'indemnité de nourriture et loge- 15
ment du particulier — qu'il est
raisonnable d'attribuer à cette
période, ou

(II) un montant qui serait inclus
dans le calcul du revenu du parti- 20
culier pour l'année si ce n'était le
paragraphe 6(6),

(ii) de 20 % de son revenu pour
l'année.

Toutefois, pour les jours compris dans le 25
calcul du produit déterminé à la division
b)(i)(A) et où le particulier tient et
habite un établissement domestique
autonome, 225 \$ est remplacé par 450 \$,
sauf si ces jours sont compris dans le 30
calcul d'une déduction demandée par
une autre personne qui habite l'établis-
sement ces jours-là.»

(2) Le paragraphe (1) s'applique aux 35
années d'imposition 1987 et suivantes.

35. (1) Le paragraphe 111(1) de la même
loi est modifié par suppression du mot «et» à
la fin de l'alinéa c) et par adjonction de ce
qui suit :

«e) les pertes comme commanditaire ou 40
assimilé subies dans une société par le

Pertes comme
commanditaire
ou assimilé

years preceding the year, but no amount is deductible for the year in respect of a limited partnership loss except to the extent of the amount by which

(i) his at-risk amount in respect of the partnership (within the meaning assigned by subsection 96(2.2)) at the end of the last fiscal period of the partnership ending in the taxation year

exceeds

(ii) the aggregate of all amounts each of which is

(A) the amount required by subsection 127(8) in respect of the partnership to be added in computing the investment tax credit of the taxpayer for the taxation year,

(B) the taxpayer's share of any losses of the partnership for that fiscal period from a business or property, or

(C) the taxpayer's share of

(I) the foreign exploration and development expenses, if any, incurred by the partnership in that fiscal period,

(II) the Canadian exploration expense, if any, incurred by the partnership in that fiscal period,

(III) the Canadian development expense, if any, incurred by the partnership in that fiscal period, and

(IV) the Canadian oil and gas property expense, if any, incurred by the partnership in that fiscal period."

(2) All that portion of paragraph 111(3)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

"(a) an amount in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year is deductible by a taxpayer in computing taxable income for a particular taxation year only to the extent that it exceeds the aggregate of"

contribuable pour les années d'imposition précédant l'année; toutefois, le montant déductible pour l'année au titre d'une perte comme commanditaire ou assimilé ne l'est qu'à concurrence de l'excédent

(i) de la fraction à risques de l'intérêt du contribuable dans la société, au sens du paragraphe 96(2.2), à la fin du dernier exercice financier de la société se terminant dans l'année

sur

(ii) le total des montants dont chacun représente :

(A) la partie du montant déterminé à l'égard de la société que le paragraphe 127(8) prévoit d'ajouter au crédit d'impôt à l'investissement du contribuable pour l'année,

(B) la part, dont le contribuable est tenu, des pertes de la société résultant d'une entreprise ou d'un bien pour le dernier exercice financier de la société se terminant dans l'année,

(C) la part attribuable au contribuable des frais d'exploration et d'aménagement à l'étranger, frais d'exploration au Canada, frais d'aménagement au Canada, et frais à l'égard de biens canadiens relatifs au pétrole et au gaz, éventuellement engagés par la société au cours de cet exercice.»

(2) Le passage de l'alinéa 111(3)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«a) une somme au titre d'une perte autre qu'une perte en capital, d'une perte en capital nette, d'une perte agricole restreinte, d'une perte agricole ou d'une perte comme commanditaire ou assimilé, selon le cas, pour une année d'imposition n'est déductible par un contribuable dans le calcul de son revenu imposable pour une année d'imposition

(3) All that portion of paragraph 111(3)(b) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

“(b) no amount is deductible in respect of a non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss, as the case may be, for a taxation year until”

(4) Paragraph 111(3)(b) of the said Act is further amended by striking out the word “and” at the end of subparagraph (iii) thereof, by adding the word “and” at the end of subparagraph (iv) thereof and by adding thereto the following subparagraph:

“(v) in the case of a limited partnership loss, the deductible limited partnership losses.”

(5) All that portion of paragraph 111(8)(c) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

“(c) a taxpayer’s non-capital loss, net capital loss, restricted farm loss, farm loss and limited partnership loss for a taxation year during which he was not resident in Canada shall be determined as if”

(6) Subsections (1) to (5) are applicable after February 25, 1986.

36. (1) Section 117 of the said Act is amended by adding thereto, before subsection (5.2) thereof, the following subsection:

“117. (1) For the purposes of this Division, except paragraph 119(1)(d), section 120 (other than subparagraph (4)(c)(ii) thereof) and section 120.1 (other than paragraph (2)(b) thereof), tax payable under this Part, tax otherwise payable under this Part and tax under this Part

donnée que dans la mesure où elle dépasse le total»

(3) Le passage de l’alinéa 111(3)b) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«b) aucune somme n’est déductible au titre d’une perte autre qu’une perte en capital, d’une perte en capital nette, d’une perte agricole restreinte, d’une perte agricole ou d’une perte comme commanditaire ou assimilé, selon le cas, pour une année d’imposition avant que,»

(4) Le paragraphe 111(3)b) de la même loi est modifié par suppression du mot «et» à la fin du sous-alinéa (iii), par adjonction de ce mot à la fin du sous-alinéa (iv) et par adjonction de ce qui suit :

«(v) dans le cas d’une perte comme commanditaire ou assimilé, les pertes comme commanditaire ou assimilé déductibles.»

(5) Le passage de l’alinéa 111(8)c) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«c) la perte autre qu’une perte en capital, la perte en capital nette, la perte agricole restreinte, la perte agricole et la perte comme commanditaire ou assimilé subies par un contribuable pour une année d’imposition pendant laquelle il 30 ne résidait pas au Canada sont calculées comme si»

(6) Les paragraphes (1) à (5) s’appliquent 30 après le 25 février 1986.

36. (1) L’article 117 de la même loi est 35 modifié par insertion, avant le paragraphe (5.2), de ce qui suit :

«117. (1) Dans la présente section — à l’exception de l’alinéa 119(1)d) et des articles 120 (sauf le sous-alinéa 120(4)c)(ii) et 120.1 (sauf l’alinéa 120.1(2)b)) — l’impôt payable en vertu de la présente partie et l’impôt payable par ailleurs en vertu de la présente partie, quels que soient les

Impôt payable ou payable par ailleurs en vertu de la présente partie

shall be computed as if this Part were read without reference to Division E.1."

(2) Subsection 117(6) of the said Act is repealed and the following substituted therefor:

mots exprimant ces notions, sont calculés sans tenir compte de la section E.1.»

(2) Le paragraphe 117(6) de la même loi est abrogé et remplacé par ce qui suit :

5

Special table

"(6) An individual (other than an individual of a prescribed class) whose amount taxable for a taxation year does not exceed a prescribed amount may use a table prepared in accordance with pre-10 scribed rules in computing the amount that, but for sections 120.1, 120.2, 127 and 127.2 to 127.4, would be his tax payable under this Part for the year."

«(6) Le particulier (qui n'est pas d'une catégorie prescrite) dont le montant imposable pour une année d'imposition ne dépasse pas un montant prescrit peut calculer le montant qui représenterait, en l'absence des articles 120.1, 120.2, 127 et 10 127.2 à 127.4, son impôt payable en vertu de la présente partie pour l'année, en se servant d'une table établie conformément aux règles prescrites.»

5 Table spéciale

(3) Subsections (1) and (2) are applicable 15 to taxation years commencing after 1983.

(3) Les paragraphes (1) et (2) s'appliquent 15 aux années d'imposition commençant après 1983.

37. (1) Paragraph 117.1(1)(b) of the said Act is repealed and the following substituted therefor :

37. (1) L'alinéa 117.1(1)(b) de la même loi est abrogé et remplacé par ce qui suit :

"(b) the amount of \$1,000 referred to 20 in paragraph 109(1)(h),

«b) la somme de 1 000 \$ visée à l'alinéa 20 109(1)h),

(b.1) the amount of \$2,860 referred to in paragraphs 110(1)(e) and (e.1), and"

b.1) la somme de 2 860 \$ visée aux ali-
néas 110(1)e) et e.1), et»

(2) Paragraph 117.1(1)(b) of the said Act, as enacted by subsection (1), is applicable to 25 the 1986 and subsequent taxation years.

(2) L'alinéa 117.1(1)(b) de la même loi, édicté par le paragraphe (1), s'applique aux 25 années d'imposition 1986 et suivantes.

(3) Paragraph 117.1(1)(b.1) of the said Act, as enacted by subsection (1), is applicable to the 1987 and subsequent taxation 30 years.

(3) L'alinéa 117.1(1)(b.1) de la même loi, édicté par le paragraphe (1), s'applique aux années d'imposition 1987 et suivantes.

38. (1) Paragraph 120(4)(c) of the said Act is repealed and the following substituted therefor:

38. (1) L'alinéa 120(4)c) de la même loi 30 est abrogé et remplacé par ce qui suit :

"(c) "tax otherwise payable under this Part" by an individual for a taxation 35 year means the greater of

«c) «impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie» s'entend, pour une année d'imposition, du plus élevé :

35 «impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie» "tax otherwise payable under this Part"

(i) the amount, if any, by which the aggregate of

(i) de l'excédent éventuel du total de l'impôt minimum applicable au particulier pour l'année, calculé selon l'article 127.51, et de tout montant que le paragraphe 120.1(2) prévoit d'ajouter 40 à son impôt payable en vertu de la présente partie pour l'année, sur tout montant déductible selon le paragra-

(A) his minimum amount for the year determined under section 40 127.51, and

(B) any amount required under subsection 120.1(2) to be added to the tax payable by him for the year under this Part, 45

"tax otherwise payable under this Part"
«impôt qu'il est par ailleurs tenu de payer en vertu de la présente partie»

exceeds any amount that may be deducted under subsection 120.1(1) from the tax payable by him for the year under this Part, and
 (ii) the amount that, but for this section and subsection 117(6), would be the tax payable under this Part by the individual for the year if the individual were not entitled to any deduction under any of sections 126, 127, 127.2 10 and 127.4.”

(2) Subsection (1) is applicable to taxation years commencing after 1985.

39. (1) The said Act is further amended by adding thereto, immediately after section 15 120.1 thereof, the following section:

“120.2 (1) There may be deducted from the amount that, but for sections 120 and 120.1 and this section, would be the tax payable under this Part by an individual 20 for a particular taxation year such amount as he may claim not exceeding the lesser of

(a) the portion of the aggregate of his additional taxes determined under subsection (3) for the 7 taxation years 25 immediately preceding the particular year that was not deducted in computing his tax payable under this Part for a taxation year preceding the particular year, and 30

(b) the amount, if any, by which
 (i) the amount that, but for subsection 117(6), sections 120 and 120.1 and this section, would be his tax payable under this Part for the particular year if he were not entitled to any deduction under any of sections 126, 127 and 127.2 to 127.4

exceeds

(ii) his minimum amount for the particular year determined under section 127.51.

(2) Notwithstanding subsection (1), where an individual dies in a taxation year (in this subsection referred to as the “year of death”), in computing for each of the 3 taxation years (in this subsection referred to as the “particular year”) preceding the

phe 120.1(1) de son impôt payable en vertu de la présente partie pour l’année,

(ii) du montant qui, sans le présent article et le paragraphe 117(6), serait l’impôt payable par le particulier en vertu de la présente partie pour l’année si celui-ci n’avait droit à aucune des déductions de l’impôt prévues aux articles 126, 127, 127.2 et 127.4.” 10

(2) Le paragraphe (1) s’applique aux années d’imposition commençant après 1985.

39. (1) La même loi est modifiée par insertion, après l’article 120.1, de ce qui suit :

«120.2 (1) Est déductible de l’impôt payable par un particulier en vertu de la présente partie, abstraction faite des articles 120 et 120.1 et du présent article, pour une année d’imposition donnée, un montant qui ne dépasse pas le moindre : 20

a) de la partie du total des suppléments d’impôt du particulier, calculés selon le paragraphe (3), pour les sept années d’imposition précédant l’année donnée, qui n’a pas déjà été déduite dans le calcul de l’impôt payable par le particulier en vertu de la présente partie pour ces années précédentes;

b) de l’excédent éventuel

(i) de ce que serait, sans le paragraphe 117(6), les articles 120 et 120.1 et le présent article, l’impôt payable par le particulier en vertu de la présente partie pour l’année donnée si celui-ci n’avait droit à aucune des déductions de l’impôt prévues aux articles 126, 127 et 127.2 à 127.4

sur

(ii) l’impôt minimum applicable au particulier pour l’année donnée, calculé selon l’article 127.51.

(2) Par dérogation au paragraphe (1), en cas de décès d’un particulier dans une année d’imposition — appelée «année du décès» au présent paragraphe —, outre le montant déductible selon le paragraphe (1), est déductible dans le calcul de l’impôt

Report de
l’impôt
minimum

Minimum tax
carry-over

Death of
individual

Report en cas
de décès

year of death the amount that, but for sections 120 and 120.1 and this section, would be the tax payable under this Part by him for the particular year, there may be deducted, in addition to any amount that may be deducted under subsection (1), such amount as may be claimed not exceeding the lesser of

(a) the portion of the aggregate of his additional taxes determined under subsection (3) for the 7 taxation years immediately preceding the particular year and any taxation year subsequent to the particular year that was not deducted in computing his tax payable under this Part for any other taxation year, and

(b) the amount, if any, by which

(i) the amount that, but for subsection 117(6), sections 120 and 120.1 and this section, would be his tax payable under this Part for the particular year if he were not entitled to any deduction under any of sections 126, 127 and 127.2 to 127.4

exceeds

(ii) his minimum amount for the particular year determined under section 127.51.

(3) For the purposes of subsections (1) and (2), additional tax of an individual for a taxation year is the amount, if any, by which

(a) his minimum amount for the year determined under section 127.51 exceeds the aggregate of

(b) the amount that, but for subsection 117(6) and sections 120 and 120.1, would be the tax payable by him under this Part for the year if he were not entitled to any deduction under any of sections 126, 127 and 127.2 to 127.4, and

(c) that proportion of the amount, if any, by which

payable par le particulier en vertu de la présente partie, abstraction faite des articles 120 et 120.1 et du présent article, pour chacune des trois années d'imposition qui précèdent l'année du décès — chacune de ces trois années étant appelée «année donnée» au présent paragraphe — un montant qui ne dépasse pas le moindre :

a) de la partie du total des suppléments d'impôt du particulier, calculés selon le paragraphe (3), pour les sept années d'imposition précédant l'année donnée et pour toute année d'imposition suivant l'année donnée, qui n'a pas déjà été déduite dans le calcul de l'impôt payable par le particulier en vertu de la présente partie pour ces années précédentes et suivantes;

b) l'excédent éventuel

(i) de ce que serait, sans le paragraphe 117(6), les articles 120 et 120.1 et le présent article, l'impôt payable par le particulier en vertu de la présente partie pour l'année donnée si celui-ci n'avait droit à aucune des déductions de l'impôt prévues aux articles 126, 127 et 127.2 à 127.4

sur

(ii) l'impôt minimum applicable au particulier pour l'année donnée, calculé selon l'article 127.51.

(3) Pour l'application des paragraphes (1) et (2), le supplément d'impôt d'un particulier pour une année d'imposition correspond à l'excédent éventuel

a) de l'impôt minimum applicable à ce particulier pour cette année, calculé selon l'article 127.51,

sur le total des montants suivants :

b) ce que serait, sans le paragraphe 117(6) et les articles 120 et 120.1, l'impôt payable par le particulier en vertu de la présente partie pour l'année si celui-ci n'avait droit à aucune des déductions de l'impôt prévues aux articles 126, 127 et 127.2 à 127.4,

c) le produit de l'excédent éventuel

Additional tax
determined

Supplément
d'impôt

Application

(i) his special foreign tax credit for the year determined under section 127.54

exceeds

(ii) the aggregate of all amounts deductible under section 126 from his tax for the year

that

(iii) his foreign taxes for the year within the meaning assigned by subsection 127.54(1)

is of

(iv) the amount that would be his foreign taxes for the year within the meaning assigned by subsection 127.54(1) if the definition "foreign taxes" in that subsection were read without reference to "2/3 of".

(4) Subsections (1) and (2) do not apply in respect of

(a) a return of income of an individual filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4); or

(b) a taxation year of an individual in respect of which the individual has made an election under section 119."

(2) Subsection 120.2(1) of the said Act, as enacted by subsection (1), is applicable to taxation years commencing after 1985.

(3) Subsections 120.2(2) to (4) of the said Act, as enacted by subsection (1), are applicable to taxation years commencing after 1983.

40. (1) Section 121 of the said Act is repealed and the following substituted therefor:

"121. There may be deducted from the tax otherwise payable under this Part by an individual for a taxation year 2/3 of any amount that is required by paragraph 82(1)(b) to be included in computing his income for the year."

(2) Subsection (1) is applicable with respect to taxable dividends received after 1986.

Deduction for taxable dividends

(i) du crédit spécial pour impôts étrangers du particulier pour l'année, calculé selon l'article 127.54,

sur

(ii) le total des montants déductibles de l'impôt du particulier pour l'année en vertu de l'article 126,

par le rapport entre

(iii) ses impôts payés à l'étranger pour l'année au sens du paragraphe 127.54(1)

et

(iv) le montant qui représenterait ses impôts payés à l'étranger pour l'année si la mention «des 2/3» dans la définition d'«impôts payés à l'étranger» au paragraphe 127.54(1) était supprimée.

(4) Les paragraphes (1) et (2) ne s'appliquent :

a) ni à une déclaration de revenu d'un particulier produite en vertu du paragraphe 70(2), de l'alinéa 104(23)d) ou 128(2)e) ou du paragraphe 150(4);

b) ni à une année d'imposition à l'égard de laquelle un particulier a fait le choix prévu à l'article 119.»

(2) Le paragraphe 120.2(1) de la même loi, édicté par le paragraphe (1), s'applique aux années d'imposition commençant après 1985.

(3) Les paragraphes 120.2(2) à (4) de la même loi, édictés par le paragraphe (1), s'appliquent aux années d'imposition commençant après 1983.

40. (1) L'article 121 de la même loi est abrogé et remplacé par ce qui suit :

«121. Sont déductibles de l'impôt payable par ailleurs en vertu de la présente partie par un particulier pour une année d'imposition les deux tiers du montant que l'alinéa 82(1)b) prévoit d'ajouter dans le calcul de son revenu pour l'année.»

(2) Le paragraphe (1) s'applique aux dividendes imposables reçus après 1986.

Report inapplicable

Crédit d'impôt pour dividendes

41. (1) Paragraph 122.3(2)(b) of the said Act is repealed and the following substituted therefor:

"tax otherwise payable under this Part for the year"
«impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie»

"(b) "tax otherwise payable under this Part for the year" means the amount that, but for this section and sections 120, 120.1, 120.2, 121, 126, 127 and 127.2 to 127.4, would be the tax payable under this Part for the year."

(2) Subsection (1) is applicable to the 1984 and subsequent taxation years.

42. (1) The said Act is further amended by adding thereto, immediately after section 122.3 thereof, the following section:

Definitions

"eligible individual"
«particulier admissible»

"qualified relation"
«proche admissible»

Persons not eligible individuals or qualified relations

"122.4 (1) Subject to subsection (2), in this section,

"eligible individual" for a taxation year means an individual (other than a trust) who, at the end of the year, is

- (a) married,
- (b) a parent of a child, or
- (c) 18 years of age or over;

"qualified relation" of an individual for a taxation year means

- (a) not more than one person who, in the year, was the spouse of the individual other than a person who, at the end of the year or, where the person died in the year, at the time of death, was living apart from the individual by reason of the breakdown of their marriage, and
- (b) a person, other than an eligible individual, who is

- (i) a child of the individual, or
- (ii) a person in respect of whom the individual, or his spouse referred to in paragraph (a), was the only person who claimed a deduction under section 109 for the year.

(2) An individual shall be deemed not to be an eligible individual or a qualified relation of an individual for a taxation year where he was a person

- (a) referred to in paragraph 149(1)(a) or
- (b) for the year;

41. (1) L'alinéa 122.3(2)(b) de la même loi est abrogé et remplacé par ce qui suit :

«b) «impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie» s'entend de ce que serait, sans le présent article et les articles 120, 120.1, 120.2, 121, 126, 127 et 127.2 à 127.4, l'impôt payable pour l'année en vertu de la présente partie.»

(2) Le paragraphe (1) s'applique aux années d'imposition 1984 est suivantes.

42. (1) La même loi est modifiée par insertion, après l'article 122.3, de ce qui suit :

«122.4 (1) Au présent article, sous réserve du paragraphe (2) :

«particulier admissible» s'entend, pour une année d'imposition, du particulier — à l'exclusion d'une fiducie — qui, à la fin de l'année, est marié, est père ou mère d'un enfant ou a au moins 18 ans;

«proche admissible» s'entend, s'agissant d'un proche admissible d'un particulier pour une année d'imposition,

- a) de la personne qui est, dans l'année, le conjoint du particulier, à condition que celle-ci et le particulier ne vivent pas séparément — pour cause d'échec du mariage — à la fin de l'année ou, en cas de décès de cette personne, à la date du décès et étant entendu que seul un conjoint est admissible pour l'année;
- b) d'une personne qui n'est pas elle-même un particulier admissible et qui est :

- (i) un enfant du particulier,
- (ii) quelqu'un pour qui le particulier ou son conjoint visé à l'alinéa a) a seul demandé une déduction en vertu de l'article 109 pour l'année.

(2) N'est considéré ni comme un particulier admissible ni comme un proche admissible d'un particulier, pour une année d'imposition, quiconque :

- a) est visé à l'alinéa 149(1)a) ou b) pour l'année;

«impôt qu'il est par ailleurs tenu de payer pour l'année en vertu de la présente partie»
"tax otherwise payable under this Part for the year"

Admissibilité au crédit pour taxe de vente

«particulier admissible»
"eligible individual"

«proche admissible»
"qualified relation"

Inadmissibilité de certaines personnes

Amount deemed paid on account of tax

Filing by married individuals

(b) confined in the year to a prison or similar institution for a period or periods the aggregate of which in the year was more than six months; or
(c) not resident in Canada at any time in the year.

(3) Where an eligible individual for a taxation year files with his return of income (other than a return of income filed under subsection 70(2), paragraph 104(23)(d) or 128(2)(e) or subsection 150(4)) under this Part for the year a prescribed form, containing prescribed information, completed by the individual or, where the individual was married and was living with his spouse at the end of the year, jointly by the individual and his spouse, the amount, if any, by which the aggregate of

- (a) \$50 for the eligible individual himself,
 - (b) \$50 for a qualified relation of the individual for the year who was his spouse, and
 - (c) the product obtained when \$25 is multiplied by the number of other qualified relations of the individual for the year, exceeds 5% of the amount, if any, by which
 - (d) the aggregate of the individual's income for the year and, where the individual's spouse was a qualified relation of the individual for the year, the spouse's income for the year exceeds
 - (e) \$15,000
- shall be deemed to be an amount paid by him at the end of the year on account of his tax under this Part for the year.

(4) Notwithstanding subsection (3), where two individuals are married to each other and one is a qualified relation of the other for a taxation year, only one of them may file a prescribed form under subsection (3) for the year."

b) est détenu au cours de l'année dans une prison ou dans un établissement semblable pour une ou plusieurs périodes totalisant plus de six mois dans l'année; ou
c) ne réside pas au Canada à un moment de l'année.

(3) Tout particulier admissible pour une année d'imposition qui produit, avec sa déclaration de revenu — sauf une déclaration de revenu produite selon le paragraphe 70(2), l'alinéa 104(23)d) ou 128(2)e) ou le paragraphe 150(4) — en vertu de la présente partie pour l'année, le formulaire réglementaire contenant les renseignements réglementaires et rempli par lui-même ou, si celui-ci et son conjoint résident ensemble à la fin de l'année, par eux deux conjointement, est réputé avoir payé à la fin de l'année, au titre de son impôt en vertu de la présente partie pour l'année, l'excédent éventuel du total

- a) de 50 \$ pour lui-même,
 - b) de 50 \$ pour le conjoint qui est le proche admissible du particulier pour l'année, et
 - c) du produit de 25 \$ par le nombre d'autres proches admissibles du particulier pour l'année,
- sur 5 % de l'excédent éventuel du total du revenu du particulier pour l'année et, si le conjoint du particulier est un proche admissible de celui-ci pour l'année, du revenu du conjoint pour l'année, sur 15 000 \$.

(4) Par dérogation au paragraphe (3), dans le cas de particuliers mariés l'un à l'autre, dont chacun est proche admissible de l'autre pour une année d'imposition, l'un des deux seulement peut produire le formulaire réglementaire visé au paragraphe (3) pour l'année.»

Crédit remboursable pour taxe de vente

Formulaire à produire par les particuliers mariés

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years.

43. (1) Paragraphs 123(1)(a) and (b) of the said Act are repealed and the following substituted therefor:

“(a) 43% of its amount taxable for the year,

(b) 5% of the amount taxable earned by the corporation in the year in the Nova Scotia offshore area,

(c) in the case of a corporation that was throughout the year a Canadian-controlled private corporation, 3% of the lesser of

(i) the amount, if any, by which
(A) its amount taxable for the year exceeds the aggregate of

(B) the least of the amounts determined under paragraphs 125(1)(a) to (c) in respect of the corporation for the year, and

(C) 2 times the aggregate of amounts deducted under subsection 126(2) by the corporation from its tax for the year otherwise payable under this Part, and

(ii) the amount determined under clause 129(3)(a)(i)(B) in respect of the corporation for the year, and

(d) in the case of a corporation that was throughout the year an investment corporation or a mutual fund corporation, 3% of the lesser of its amount taxable for the year and its taxed capital gains (within the meaning assigned by subsection 130(3)) for the year.”

(2) Subsection (1) is applicable to taxation years ending after June 30, 1987, except that (a) in the application of paragraph 123(1)(a) of the said Act, as enacted by subsection (1), to taxation years ending after June, 1987 and commencing before July, 1989, there shall be added to the amount otherwise determined under that paragraph in respect of a corporation for a taxation year the aggregate of

(2) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

43. (1) Les alinéas 123(1)a) et b) de la même loi sont abrogés et remplacés par ce qui suit :

«a) 43 % de son montant imposable pour l'année;

b) 5 % du montant imposable gagné par la corporation au cours de l'année dans la zone extracôtière de la Nouvelle-Écosse;

c) dans le cas d'une corporation qui a été tout au long de l'année une corporation privée dont le contrôle est canadien, 3 % du moins élevé,

(i) de l'excédent éventuel
(A) de son montant imposable pour l'année

sur le total

(B) du moindre des montants calculés selon les alinéas 125(1)a) à c) pour la corporation pour l'année, et

(C) de deux fois le total des montants déduits en vertu du paragraphe 126(2) par la corporation de son impôt payable par ailleurs pour l'année en vertu de la présente partie,

(ii) du montant déterminé en vertu de la division 129(3)a)(i)(B) pour la corporation pour l'année; et

d) dans le cas d'une corporation qui a été tout au long de l'année une corporation de placement ou une corporation de fonds mutuels, 3 % du moins élevé du montant imposable de la corporation pour l'année ou de ses gains en capital imposés, au sens du paragraphe 130(3), pour l'année.»

(2) Le paragraphe (1) s'applique aux années d'imposition se terminant après le 30 juin 1987. Toutefois,

a) pour l'application de l'alinéa 123(1)a) de la même loi, édicté par le paragraphe (1), aux années d'imposition se terminant après le 30 juin 1987 et commençant avant le 1^{er} juillet 1989, doit être ajouté au montant calculé par ailleurs en vertu de cet

- (i) that proportion of 3% of its amount taxable for the year that the number of days in the year that are before July, 1987 is of the number of days in the year, 5
- (ii) that proportion of 2% of its amount taxable for the year that the number of days in the year that are after June, 1987 and before July, 1988 is of the number of days in the year, and 10
- (iii) that proportion of 1% of its amount taxable for the year that the number of days in the year that are after June, 1988 and before July, 1989 is of the number of days in the year; 15
- (b) in the application of paragraph 123(1)(c) of the said Act, as enacted by subsection (1), to taxation years ending after June, 1987 and commencing before July, 1989, there shall be deducted from 20 the amount otherwise determined under that paragraph in respect of a corporation for a taxation year the aggregate of
- (i) that proportion of 3% of the lesser of the amounts determined under subpara- 25 graphs (i) and (ii) of that paragraph in respect of the corporation for the year that the number of days in the year that are before July, 1987 is of the number of days in the year, 30
- (ii) that proportion of 2% of the lesser of the amounts determined under subparagraphs (i) and (ii) of that paragraph in respect of the corporation for the year that the number of days in the 35 year that are after June, 1987 and before July, 1988 is of the number of days in the year, and
- (iii) that proportion of 1% of the lesser of the amounts determined under sub- 40 paragraphs (i) and (ii) of that paragraph in respect of the corporation for the year that the number of days in the year that are after June, 1988 and before July, 1989 is of the number of 45 days in the year; and
- (c) in the application of paragraph 123(1)(d) of the said Act, as enacted by subsection (1), to taxation years ending after June, 1987 and commencing before 50
- alinéa pour une corporation pour une année d'imposition le total
- (i) du produit de 3 % du montant imposable de la corporation pour l'année par le rapport entre le nombre de jours de 5 l'année antérieurs au 1^{er} juillet 1987 et le nombre total de jours de l'année,
- (ii) du produit de 2 % du montant imposable de la corporation pour l'année par le rapport entre le nombre de jours 10 de l'année postérieurs au 30 juin 1987 et antérieurs au 1^{er} juillet 1988 et le nombre total de jours de l'année, et
- (iii) du produit de 1 % du montant imposable de la corporation pour l'année 15 par le rapport entre le nombre de jours de l'année postérieurs au 30 juin 1988 et antérieurs au 1^{er} juillet 1989 et le nombre total de jours de l'année;
- b) pour l'application de l'alinéa 123(1)c) 20 de la même loi, édicté par le paragraphe (1), aux années d'imposition se terminant après le 30 juin 1987 et commençant avant le 1^{er} juillet 1989, doit être déduit du montant calculé par ailleurs en vertu de cet 25 alinéa pour une corporation pour une année d'imposition le total
- (i) du produit de 3 % du moindre des montants calculés selon les sous-alinéas 123(1)c)(i) et (ii) pour la corporation 30 pour l'année par le rapport entre le nombre de jours de l'année antérieurs au 1^{er} juillet 1987 et le nombre total de jours de l'année,
- (ii) du produit de 2 % du moindre des 35 montants calculés selon les sous-alinéas 123(1)c)(i) et (ii) pour la corporation pour l'année par le rapport entre le nombre de jours de l'année postérieurs au 30 juin 1987 et antérieurs au 1^{er} 40 juillet 1988 et le nombre total de jours de l'année, et
- (iii) du produit de 1 % du moindre des montants calculés selon les sous-alinéas 123(1)c)(i) et (ii) pour la corporation 45 pour l'année par le rapport entre le nombre de jours de l'année postérieurs au 30 juin 1988 et antérieurs au 1^{er} juillet 1989 et le nombre total de jours de l'année; 50

July, 1989, there shall be deducted from the amount otherwise determined under that paragraph in respect of a corporation for a taxation year the aggregate of

- (i) that proportion of 3% of the lesser of its amount taxable and its taxed capital gains for the year that the number of days in the year that are before July, 1987 is of the number of days in the year, 5
- (ii) that proportion of 2% of the lesser of its amount taxable and its taxed capital gains for the year that the number of days in the year that are after June, 1987 and before July, 1988 is of the number of days in the year, and 10
- (iii) that proportion of 1% of the lesser of its amount taxable and its taxed capital gains for the year that the number of days in the year that are after June, 1988 and before July, 1989 is of the number of days in the year. 15

44. (1) Paragraph 123.1(a) of the said Act is repealed and the following substituted therefor: 25

“(a) the tax payable under this Part by the corporation for the year determined without reference to paragraph 123(1)(b), this section, sections 123.2 and 126 (except for the purposes of subsection 125(1) and section 125.1), subsections 127(3), (5) and (13), 127.2(1) and 127.3(1) and as if subsection 124(1) were read without reference to the words “in a province” therein” 35

(2) Subsection (1) is applicable to the 1987 and subsequent taxation years.

45. (1) The said Act is further amended by adding thereto, immediately after section 123.1 thereof, the following section: 40

c) pour l'application de l'alinéa 123(1)d) de la même loi, édicté par le paragraphe (1), aux années d'imposition se terminant après le 30 juin 1987 et commençant avant le 1^{er} juillet 1989, doit être déduit du montant calculé par ailleurs en vertu de cet alinéa pour une corporation pour une année d'imposition le total : 5

(i) du produit de 3 % du moindre du montant imposable de la corporation pour l'année ou de ses gains en capital imposés pour l'année par le rapport entre le nombre de jours de l'année antérieurs au 1^{er} juillet 1987 et le nombre total de jours de l'année, 10 15

(ii) du produit de 2 % du moindre du montant imposable de la corporation pour l'année ou de ses gains en capital imposés pour l'année par le nombre de jours de l'année postérieurs au 30 juin 1987 et antérieurs au 1^{er} juillet 1988, et le nombre total de jours de l'année, et

(iii) du produit de 1 % du moindre du montant imposable de la corporation pour l'année ou de ses gains en capital imposés pour l'année par le rapport entre le nombre de jours de l'année postérieurs au 30 juin 1988 et antérieurs au 1^{er} juillet 1989 et le nombre total de jours de l'année. 25 30

44. (1) L'alinéa 123.1a) de la même loi est abrogé et remplacé par ce qui suit :

«a) de l'impôt payable en vertu de la présente partie par la corporation pour l'année, calculé sans tenir compte de l'alinéa 123(1)b), du présent article, des articles 123.2 et 126 (sauf pour l'application du paragraphe 125(1) et de l'article 125.1), des paragraphes 127(3), (5) et (13), 127.2(1) et 127.3(1), ni de la mention «dans une province» au paragraphe 124(1),» 35 40

(2) Le paragraphe (1) s'applique aux années d'imposition 1987 et suivantes.

45. (1) La même loi est modifiée par insertion, après l'article 123.1, de ce qui suit :

“123.2 There shall be added to the tax otherwise payable under this Part for each taxation year by a corporation (other than a corporation that was throughout the year a non-resident-owned investment corporation) an amount equal to 3% of the amount, if any, by which

(a) the tax payable under this Part by the corporation for the year determined without reference to paragraph 123(1)(b), section 123.1, this section, section 126 (except for the purposes of subsection 125(1) and sections 125.1 and 129), subsections 127(3), (5) and (13), 127.2(1) and 127.3(1) and as if subsection 124(1) were read without reference to the words “in a province” therein

exceeds

(b) in the case of a corporation that was throughout the year a Canadian-controlled private corporation, the least of the amounts determined under subparagraphs 129(3)(a)(i) to (iii) in respect of the corporation for the year,

(c) in the case of a corporation that was throughout the year an investment corporation or a mutual fund corporation, the amount determined under subparagraph 131(6)(d)(i) in respect of the corporation for the year, and

(d) in any other case, nil.”

(2) Subsection (1) is applicable to the 1987 and subsequent taxation years, except that in the application of section 123.2 of the said Act, as enacted by subsection (1), to a taxation year of a corporation commencing before 1987 and ending after 1986, the amount determined under that section in respect of the corporation for the year shall be deemed to be that proportion of the amount otherwise determined under that section in respect of the corporation for the year that

(a) the number of days in the year that is of

(b) the number of days in the year.

«123.2 Doit être ajouté à l'impôt payable par ailleurs en vertu de la présente partie pour chaque année d'imposition par une corporation (à l'exclusion d'une corporation qui a été tout au long de l'année une corporation de placement appartenant à des non-résidents) 3 % de l'excédent éventuel :

a) de l'impôt payable en vertu de la présente partie par la corporation pour l'année, calculé sans tenir compte de l'alinéa 123(1)b), de l'article 123.1, du présent article, de l'article 126 (sauf pour l'application du paragraphe 125(1) et des articles 125.1 et 129), des paragraphes 127(3), (5) et (13), 127.2(1) et 127.3(1), ni de la mention «dans une province» au paragraphe 124(1),

sur

b) dans le cas d'une corporation qui a été tout au long de l'année une corporation privée dont le contrôle est canadien, le moindre des montants calculés selon les sous-alinéas 129(3)a)(i) à (iii) pour la corporation pour l'année,

c) dans le cas d'une corporation qui a été tout au long de l'année une corporation de placement ou une corporation de fonds mutuels, la somme calculée selon le sous-alinéa 131(6)d)(i) pour la corporation pour l'année,

d) dans les autres cas, zéro.»

(2) Le paragraphe (1) s'applique aux années d'imposition 1987 et suivantes. Toutefois, pour l'application de l'article 123.2 de la même loi, édicté par le paragraphe (1), à une année d'imposition d'une corporation commençant avant 1987 et se terminant après 1986, le montant calculé selon cet article pour la corporation pour l'année est réputé être le produit du montant calculé par ailleurs selon cet article pour la corporation pour l'année par le rapport entre le nombre de jours de l'année postérieurs au 31 décembre 1986 et le nombre total de jours de l'année.

46. (1) All that portion of subsection 125(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

Small business deduction

“125. (1) There may be deducted from the tax otherwise payable under this Part for a taxation year by a corporation that was, throughout the year, a Canadian-controlled private corporation, an amount equal to 20% of the least of”

(2) Subparagraph 125(1)(b)(i) of the said Act is repealed and the following substituted therefor:

“(i) 10/4 of the aggregate of amounts that would be deductible under subsection 126(1) from the tax for the year otherwise payable by it under this Part if the amount determined under subparagraph 126(7)(d)(i) were determined without reference to paragraph 123(1)(c), and”

(3) Subsection (1) is applicable to taxation years ending after June, 1989, except that there shall be added to the amount otherwise determined under subsection 125(1) of the said Act, as enacted by subsection (1), in respect of a taxation year of a corporation commencing before July, 1989 and ending after June, 1989, that proportion of 1% of the least of the amounts determined under paragraphs 125(1)(a) to (c) of the said Act in respect of the corporation for the year that

(a) the number of days in the year that are before July, 1989 is of

(b) the number of days in the year.

(4) Subsection (2) is applicable to taxation years ending after June, 1987.

47. (1) All that portion of paragraph 125.1(1)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

“(a) 7% of the lesser of”

46. (1) Le passage du paragraphe 125(1) de la même loi qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«125. (1) Une corporation qui a été une corporation privée dont le contrôle est canadien tout au long d'une année d'imposition peut déduire de son impôt payable par ailleurs pour l'année en vertu de la présente partie 20 % du moindre des montants suivants :»

(2) Le sous-alinéa 125(1)b)(i) de la même loi est abrogé et remplacé par ce qui suit :

«(i) de 10/4 du total des sommes qui seraient déductibles en vertu du paragraphe 126(1) de l'impôt pour l'année payable par ailleurs par la corporation en vertu de la présente partie si l'excédent visé au sous-alinéa 126(7)d)(i) était calculé sans tenir compte de l'alinéa 123(1)c), et»

(3) Le paragraphe (1) s'applique aux années d'imposition se terminant après le 30 juin 1989. Toutefois, doit être ajouté au montant calculé par ailleurs selon le paragraphe 125(1) de la même loi, édicté par le paragraphe (1), pour une année d'imposition d'une corporation commençant avant le 1^{er} juillet 1989 et se terminant après le 30 juin 1989, le produit de 1 % du moindre des montants calculés selon les alinéas 125(1)a) à c) de la même loi pour la corporation pour l'année par le rapport entre le nombre de jours de l'année antérieurs au 1^{er} juillet 1989 et le nombre total de jours de l'année.

(4) Le paragraphe (2) s'applique aux années d'imposition se terminant après le 30 juin 1987.

47. (1) Le passage de l'alinéa 125.1(1)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«a) 7 % du moins élevé des montants suivants :»

Déduction accordée aux petites entreprises

(2) All that portion of subsection 125.1(1) of the said Act following paragraph (b) thereof is repealed.

(3) There shall be added to the amount otherwise determined in respect of a corporation for a taxation year under paragraph 125.1(1)(b) of the said Act that proportion of 1% of the lesser of the amounts determined under subparagraphs 125.1(1)(b)(i) and (ii) of the said Act in respect of the corporation for the year that the number of days in the year that are after June, 1987 and before July, 1988 is of the number of days in the year.

(4) Subsections (1) and (2) are applicable to taxation years ending after June, 1987, except that there shall be deducted from the amount otherwise determined under paragraph 125.1(1)(a) of the said Act, as enacted by subsection (1), in respect of a taxation year of a corporation commencing before July, 1987 and ending after June, 1987 that proportion of 1% of the lesser of the amounts determined under subparagraphs 125.1(1)(a)(i) and (ii) of the said Act in respect of the corporation for the year that

(a) the number of days in the year that are before July, 1987

is of

(b) the number of days in the year. 30

48. (1) Subclause 126(1)(b)(i)(E)(II) of the said Act is repealed and the following substituted therefor:

“(II) if he deducted an amount under subsection 122.3(1) from his tax otherwise payable under this Part for the year, the taxpayer’s income from employment in that country was not from a source in that country to the extent of the lesser of the amounts determined in respect thereof under paragraphs 122.3(1)(c) and (d) for the year,” 45

(2) Paragraphs 126(2.3)(b) and (c) of the said Act are repealed and the following substituted therefor:

(2) Le passage du paragraphe 125.1(1) de la même loi qui suit l’alinéa b) est abrogé.

(3) Doit être ajouté au montant calculé par ailleurs selon l’alinéa 125.1(1)b) de la même loi pour une corporation pour une année d’imposition le produit de 1 % du moindre des montants calculés selon les sous-alinéas 125.1(1)b)(i) et (ii) de la même loi pour la corporation pour l’année par le rapport entre le nombre de jours de l’année postérieurs au 30 juin 1987 et antérieurs au 1^{er} juillet 1988 et le nombre total de jours de l’année. 10

(4) Les paragraphes (1) et (2) s’appliquent aux années d’imposition se terminant après le 30 juin 1987. Toutefois, pour une année d’imposition d’une corporation commençant avant le 1^{er} juillet 1987 et se terminant après le 30 juin 1987, doit être déduit du montant calculé par ailleurs selon l’alinéa 125.1(1)a) de la même loi, édicté par le paragraphe (1), le produit de 1 % du moindre des montants calculés selon les sous-alinéas 125.1(1)a)(i) et (ii) de la même loi pour la corporation pour l’année par le rapport entre le nombre de jours de l’année antérieurs au 1^{er} juillet 1987 et le nombre total de jours de l’année. 25

48. (1) La subdivision 126(1)b)(i)(E)(II) de la même loi est abrogée et remplacée par ce qui suit : 30

«(II) que, si le contribuable a déduit un montant en vertu du paragraphe 122.3(1) de son impôt payable par ailleurs en vertu de la présente partie pour l’année, son revenu tiré d’un emploi dans ce pays n’était pas tiré d’une source située dans ce pays, jusqu’à concurrence du moins élevé des montants déterminés à ce titre pour l’année en vertu des alinéas 122.3(1)c) et d),» 40

(2) Les alinéas 126(2.3)b) et c) de la même loi sont abrogés et remplacés par ce qui suit : 45

“(b) no amount may be claimed under paragraph (2)(a) in computing a taxpayer’s tax payable under this Part or Part I.1 for a particular taxation year in respect of his unused foreign tax credit in respect of a country for a taxation year until his unused foreign tax credits in respect of that country for taxation years preceding the taxation year that may be claimed for the particular taxation year have been claimed; and

(c) an amount in respect of a taxpayer’s unused foreign tax credit in respect of a country for a taxation year may be claimed under paragraph (2)(a) in computing his tax payable under this Part or Part I.1 for a particular taxation year only to the extent that it exceeds the aggregate of all amounts each of which is the amount that may reasonably be considered to have been claimed in respect of that unused foreign tax credit in computing his tax payable under this Part or Part I.1 for a taxation year preceding the particular taxation year.”

(3) Subparagraph 126(7)(c)(vi) of the said Act is repealed and the following substituted therefor:

“(vi) that, where the taxpayer deducted an amount under subsection 122.3(1) from his tax otherwise payable under this Part for the year, may reasonably be regarded as attributable to his income from employment to the extent of the lesser of the amounts determined in respect thereof under paragraphs 122.3(1)(c) and (d) for the year, or”

(4) Subparagraphs 126(7)(d)(i) to (iii) of the said Act are repealed and the following substituted therefor:

«(b) aucun montant ne peut être déduit en vertu de l’alinéa (2)a), dans le calcul de l’impôt à payer en vertu de la présente partie et de la surtaxe à payer en vertu de la partie I.1 par un contribuable pour une année d’imposition donnée, au titre de la fraction inutilisée de son crédit pour impôt étranger relativement à un pays pour une année d’imposition, tant que la fraction inutilisée de ses crédits pour impôts étrangers relativement à ce pays pour les années d’imposition précédant l’année donnée pouvant être déduite pour l’année donnée ne l’a pas été;

c) un montant, au titre de la fraction inutilisée du crédit pour impôt étranger d’un contribuable relativement à un pays pour une année d’imposition, peut être déduit en vertu de l’alinéa (2)a) dans le calcul de son impôt à payer en vertu de la présente partie et de sa surtaxe à payer en vertu de la partie I.1 pour une année d’imposition donnée, uniquement dans la mesure où il dépasse le total des montants dont chacun représente le montant qu’il est raisonnable de considérer comme déduit au titre de cette fraction inutilisée du crédit pour impôt étranger dans le calcul de son impôt à payer en vertu de la présente partie ou de sa surtaxe à payer en vertu de la partie I.1 pour chaque année d’imposition antérieure à l’année donnée.»

(3) Le sous-alinéa 126(7)c)(vi) de la même loi est abrogé et remplacé par ce qui suit :

«(vi) qui, si le contribuable déduit une somme selon le paragraphe 122.3(1) de son impôt payable par ailleurs en vertu de la présente partie pour l’année, peut raisonnablement être considéré comme se rapportant à son revenu d’emploi, à concurrence du moindre des montants déterminés à ce titre pour l’année en vertu de l’alinéa 122.3(1)c) ou d),»

(4) Les sous-alinéas 126(7)d)(i) à (iii) de la même loi sont abrogés et remplacés par ce qui suit :

“(i) in paragraph (1)(b) and subsection (3), the amount, if any, by which (A) the amount that would be the tax payable under this Part for the year if that tax were determined without reference to section 120.1 and paragraph 123(1)(b), before making any deduction under any of sections 121, 122.3, 125 to 127 and 127.2 to 127.4 and as if the lesser of the amounts determined under subparagraphs 123(1)(c)(i) and (ii) were the amount taxable (within the meaning assigned by subsection 123(1)) for the year and subsection 124(1) were read without reference to the words “in a province” therein exceeds
(B) the amount, if any, deemed by subsection 120(2) to have been paid on account of tax payable under this Part for the year,
(ii) in subparagraph (2)(c)(i) and paragraph (2.2)(b), the tax for the taxation year payable under this Part (determined without reference to section 120.1 and paragraphs 123(1)(b), (c) and (d) and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.4), and
(iii) in subsection (2.1), the tax for the taxation year payable under this Part (determined without reference to subsection 120(1), section 120.1 and paragraphs 123(1)(b), (c) and (d) and before making any deduction under any of sections 121, 122.3, 124 to 127 and 127.2 to 127.4); and”

(5) All that portion of paragraph 126(7)(e) of the said Act following subparagraph (i) thereof is repealed and the following substituted therefor:

“exceeds the aggregate of
(ii) the amount, if any, deductible under subsection (2) in respect of that country in computing his tax payable under this Part for the year, and
(iii) that portion of business income tax paid by him for the year in respect of businesses carried on by him in

«(i) à l’alinéa (1)b) et au paragraphe (3), l’excédent éventuel
(A) de l’impôt payable en vertu de la présente partie pour l’année — calculé sans tenir compte de l’article 120.1 et de l’alinéa 123(1)b) et avant toute déduction visée à l’un des articles 121, 122.3, 125 à 127 et 127.2 à 127.4 et en considérant que le moindre des montants déterminés en application des sous-alinéas 123(1)c)(i) et (ii) est le montant imposable, au sens du paragraphe 123(1), pour l’année et qu’il est fait abstraction des mots «dans une province» au paragraphe 124(1) —
sur
(B) la somme éventuelle réputée, en application du paragraphe 120(2), avoir été payée au titre de l’impôt payable pour l’année en vertu de la présente partie,
(ii) au sous-alinéa (2)c)(i) et à l’alinéa (2.2)b), l’impôt payable en vertu de la présente partie pour l’année — calculé sans tenir compte de l’article 120.1 et des alinéas 123(1)b), c) et d) et avant toute déduction visée à l’un des articles 121, 122.3, 124 à 127 et 127.2 à 127.4 —, et
(iii) au paragraphe (2.1), l’impôt payable en vertu de la présente partie pour l’année — calculé sans tenir compte du paragraphe 120(1), de l’article 120.1 et des alinéas 123(1)b), c) et d) et avant toute déduction visée à l’un des articles 121, 122.3, 124 à 127 et 127.2 à 127.4 —;»

(5) Le passage de l’alinéa 126(7)e) de la même loi qui suit le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

«sur le total
(ii) du montant éventuellement déductible en vertu du paragraphe (2) relativement à ce pays dans le calcul de son impôt payable en vertu de la présente partie pour l’année, et
(iii) de la partie de l’impôt sur le revenu tiré d’une entreprise payée par

that country that may reasonably be considered to have been deducted in computing his tax payable under Part I.1 for the year."

le contribuable pour l'année relative-
ment aux entreprises exploitées par
celui-ci dans ce pays qu'il est raison-
nable de considérer comme déjà
déduite dans le calcul de la surtaxe
payable en vertu de la partie I.1 pour
l'année.»

(6) Subsections (1) and (4) are applicable to the 1987 and subsequent taxation years.

(6) Les paragraphes (1) et (4) s'appliquent aux années d'imposition 1987 et suivantes.

(7) Subsections (2) and (5) are applicable to the 1986 and subsequent taxation years.

(7) Les paragraphes (2) et (5) s'appliquent aux années d'imposition 1986 et suivantes.

(8) Subsection (3) is applicable to taxation years commencing after 1985.

(8) Le paragraphe (3) s'applique aux 10 années d'imposition commençant après 1985.

49. (1) Subsection 127(7) of the said Act is repealed and the following substituted therefor:

49. (1) Le paragraphe 127(7) de la même loi est abrogé et remplacé par ce qui suit :

Investment tax
credit of
testamentary
trust

"(7) Where, in a particular taxation year of a taxpayer who is a beneficiary under a testamentary trust or under an inter-vivos trust that is deemed to be in existence by section 143, an amount is determined in respect of the trust under paragraph (a), (b) or (e.1) of the definition "investment tax credit" in subsection (9) for its taxation year ending in that particular taxation year, the trust may, in its return of income under this Part for its taxation year ending in that particular taxation year, designate such portion of that amount as may, having regard to all the circumstances including the terms and conditions of the trust, reasonably be considered to be attributable to the taxpayer and was not designated by the trust in respect of any other beneficiary of that trust, and that portion shall be added in computing the investment tax credit of the taxpayer at the end of that particular taxation year and shall be deducted in computing the investment tax credit of the trust at the end of its taxation year ending in that particular taxation year."

"(7) Lorsque, dans une année d'imposition donnée d'un contribuable bénéficiaire d'une fiducie testamentaire ou d'une fiducie non testamentaire qui est réputée exister en vertu de l'article 143, un montant est déterminé à l'égard de la fiducie en vertu de l'alinéa a), b) ou e.1) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9) pour l'année d'imposition de la fiducie se terminant dans l'année d'imposition donnée, la fiducie peut, dans sa déclaration de revenu en vertu de la présente partie pour son année d'imposition se terminant dans l'année d'imposition donnée, attribuer au contribuable la partie de ce montant qu'il est raisonnable de considérer comme se rapportant au contribuable, compte tenu de toutes les circonstances, y compris des conditions de la fiducie, et que la fiducie n'a attribuée à aucun autre de ses bénéficiaires; la partie de ce montant doit être, d'une part, ajoutée dans le calcul du crédit d'impôt à l'investissement du contribuable à la fin de l'année d'imposition donnée et, d'autre part, déduite dans le calcul du crédit d'impôt à l'investissement de la fiducie à la fin de son année d'imposition se terminant dans l'année d'imposition donnée."

Crédit d'impôt
à l'investisse-
ment d'une
fiducie
testamentaire

(2) Subsection 127(8) of the said Act is repealed and the following substituted therefor:

(2) Le paragraphe 127(8) de la même loi est abrogé et remplacé par ce qui suit :

Investment tax credit of partnership	<p>“(8) Where, in a particular taxation year of a taxpayer who is a member of a partnership, an amount would, if the partnership were a person and its fiscal period were its taxation year, be determined in respect of the partnership under paragraph (a), (b) or (e.1) of the definition “investment tax credit” in subsection (9), if paragraph (a) of that definition were read without reference to subparagraph (iii) thereof, for its taxation year ending in that particular taxation year, the portion of that amount that may reasonably be considered to be the taxpayer’s share thereof shall be added in computing the investment tax credit of the taxpayer at the end of that particular taxation year.”</p> <p>(3) Section 127 of the said Act is further amended by adding thereto, immediately after subsection (8) thereof, the following subsections:</p>	<p>«(8) Lorsque, dans une année d’imposition donnée d’un contribuable associé d’une société, un montant serait déterminé à l’égard de la société, si celle-ci était une personne et si son exercice financier correspondait à son année d’imposition, en vertu de l’alinéa a) — <u>abstraction faite du sous-alinéa a)(iii) — ou de l’alinéa b) ou e.1) de la définition de «crédit d’impôt à l’investissement» au paragraphe (9), pour son année d’imposition se terminant dans l’année donnée, la partie de ce montant qu’il est raisonnable de considérer comme la part du contribuable doit être ajoutée dans le calcul du crédit d’impôt à l’investissement du contribuable à la fin de l’année donnée.»</u></p> <p>(3) Le paragraphe 127 de la même loi est modifié par insertion, après le paragraphe (8), de ce qui suit :</p>	Crédit d’impôt à l’investissement d’un associé
Investment tax credit of limited partner	<p>“(8.1) Where a taxpayer is a limited partner of a partnership at the end of the partnership’s taxation year, the amount referred to under subsection (8) as the amount which may reasonably be considered to be the taxpayer’s share of the amounts that would be determined under paragraph (a), (b) or (e.1) of the definition “investment tax credit” in subsection (9), if paragraph (a) of that definition were read without reference to subparagraph (iii) thereof, in respect of the partnership for the year shall not exceed the lesser of</p> <p>(a) such portion of the amount thereof so determined without reference to this subsection, as is considered to have arisen by virtue of the expenditure by the partnership of an amount equal to the taxpayer’s expenditure base (as determined under subsection (8.2)) in respect of the partnership at the end of the year, and</p> <p>(b) the taxpayer’s at-risk amount in respect of the partnership at the end of the year.</p> <p>(8.2) For the purposes of subsection (8.1), a taxpayer’s expenditure base in respect of a partnership at the end of a</p>	<p>«(8.1) Lorsqu’un contribuable est commanditaire ou assimilé d’une société à la fin de l’année d’imposition de la société, la partie, visée au paragraphe (8), qu’il est raisonnable de considérer comme la part du contribuable du montant déterminé à l’égard de la société pour l’année en vertu de l’alinéa a) — <u>abstraction faite du sous-alinéa a)(iii) — ou de l’alinéa b) ou e.1) de la définition de «crédit d’impôt à l’investissement» au paragraphe (9) ne doit pas dépasser le moindre :</u></p> <p>a) de la part du montant ainsi déterminé sans tenir compte du présent paragraphe qu’il est raisonnable de considérer comme résultant de la dépense par la société d’un montant égal à l’investissement de base du contribuable dans la société à la fin de l’année, déterminé selon le paragraphe (8.2);</p> <p>b) de la fraction à risques de l’intérêt du contribuable dans la société à la fin de l’année.</p> <p>(8.2) Pour l’application du paragraphe (8.1), l’investissement de base d’un contribuable dans une société à la fin d’une</p>	Crédit d’impôt à l’investissement d’un commanditaire ou assimilé
Expenditure base			Investissement de base d’un commanditaire ou assimilé

taxation year of the partnership is the lesser of

(a) the amount, if any, by which the aggregate of

(i) the taxpayer's at-risk amount in respect of the partnership at the time he last became a limited partner of the partnership,

(ii) all amounts described in subparagraph 53(1)(e)(iv) contributed by the taxpayer after the time he last became a limited partner of the partnership and before the end of the year that may reasonably be considered to have increased the taxpayer's at-risk amount in respect of the partnership at the end of the taxation year in which the contribution was made, and

(iii) the amount, if any, by which

(A) the aggregate of all amounts each of which is the taxpayer's share of any income of the partnership as determined under paragraph 96(1)(f) for the year, or a preceding year ending after the time he last became a limited partner of the partnership,

exceeds

(B) the aggregate of all amounts each of which is the taxpayer's share of any loss of the partnership as determined under paragraph 96(1)(g) for one of those years

exceeds the aggregate of

(iv) all amounts received by the taxpayer after the time he last became a limited partner of the partnership and before the end of the year as, on account or in lieu of payment of, or in satisfaction of, a distribution of his share of partnership profits or partnership capital, and

(v) the aggregate of all amounts each of which is the amount of an expenditure of the partnership referred to in paragraph (8.1)(a) in respect of the taxpayer for a preceding year, and

(b) that proportion of the lesser of

(i) the aggregate of all amounts each of which is an amount a specified percentage of which would, if the

année d'imposition de la société est le moindre :

a) de l'excédent éventuel du total des montants suivants :

(i) la fraction à risques de l'intérêt du contribuable dans la société à la date où il en est en dernier devenu commanditaire ou assimilé,

(ii) les montants, visés au sous-alinéa 53(1)(e)(iv), fournis par le contribuable après la date où il est en dernier devenu commanditaire ou assimilé de la société et avant la fin de l'année et qu'il est raisonnable de considérer comme ayant augmenté la fraction à risques de l'intérêt du contribuable dans la société à la fin de l'année d'imposition au cours de laquelle cet apport a été fourni,

(iii) l'excédent éventuel

(A) du total des montants dont chacun représente la part, revenant au contribuable, d'un revenu de la société, calculée à l'alinéa 96(1)(f) pour l'année ou pour une année d'imposition antérieure se terminant après la date où il est en dernier devenu commanditaire ou assimilé de la société,

sur

(B) le total des montants dont chacun représente la part, dont le contribuable est tenu, d'une perte de la société, calculée à l'alinéa 96(1)(g) pour une de ces années d'imposition,

sur le total des montants suivants :

(iv) les montants reçus par le contribuable après la date où il est en dernier devenu commanditaire ou assimilé de la société et avant la fin de l'année, au titre ou en paiement de sa part des bénéfices distribués ou du capital distribué de la société,

(v) le total des montants dont chacun représente une dépense par la société d'un montant égal à l'investissement de base du contribuable dans la société, pour une année d'imposition antérieure;

b) du produit du moindre :

partnership were a person and its fiscal period were its taxation year, be determined in respect of the partnership under paragraph (a), (b) or (e.1) of the definition "investment tax credit" in subsection (9), if paragraph (a) of that definition were read without reference to subparagraph (iii) thereof, for the taxation year, and

(ii) the aggregate of all amounts each of which is the amount determined under paragraph (a) in respect of each of the limited partners of the partnership at the end of the year

that

(iii) the amount determined in respect of the taxpayer under paragraph (a) for the year

is of

(iv) the amount determined under subparagraph (ii).

(8.3) Where

(a) the amount that would, if the partnership were a person and its fiscal period were its taxation year, be determined in respect of the partnership under paragraph (a), (b) or (e.1) of the definition "investment tax credit" in subsection (9), if paragraph (a) of that definition were read without reference to subparagraph (iii) thereof, for a taxation year

exceeds

(b) the aggregate of all amounts each of which is the amount determined, under subsections (8) and (8.1), to be the share thereof of a limited partner of the partnership,

such portion of the excess as is reasonable in the circumstances, having regard to the investment in the partnership, including debt obligations of the partnership, of each of those members of the partnership who was a member of the partnership throughout the fiscal period of the partnership and who was not a limited partner of the partnership during the fiscal period of the partnership, shall, for the purposes of sub-

(i) du total des montants dont chacun représente le montant dont le pourcentage serait déterminé à l'égard de la société en vertu de l'alinéa a) — abstraction faite du sous-alinéa a)(iii) — ou de l'alinéa b) ou e.1) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9) pour l'année si la société était une personne et si son exercice financier correspondait à son année d'imposition,

(ii) du total des montants dont chacun représente l'excédent calculé à l'alinéa a) à l'égard de chaque commanditaire ou assimilé de la société à la fin de l'année

par le rapport entre l'excédent calculé à l'égard du contribuable selon l'alinéa a) pour l'année et le total visé au sous-alinéa (ii).

(8.3) Pour l'application du paragraphe (8), la partie du montant visé à l'alinéa a), qu'il est raisonnable de considérer comme la part de chaque associé qui n'était pas commanditaire ou assimilé de la société au cours d'un exercice financier de celle-ci mais qui en était associé tout au long de cet exercice, est la partie raisonnable en l'espèce — étant donné l'investissement de cet associé dans la société, y compris celui représenté par des titres de créance — de l'excédent

a) du montant qui serait déterminé à l'égard de la société en vertu de l'alinéa a) — abstraction faite du sous-alinéa a)(iii) — ou de l'alinéa b) ou e.1) de la définition de «crédit d'impôt à l'investissement» au paragraphe (9) pour une année d'imposition, si la société était une personne et si son exercice financier correspondait à son année d'imposition,

sur

b) le total des montants dont chacun représente le montant qui, selon les paragraphes (8) et (8.1), constitue la part de chaque commanditaire ou assimilé de la société.

Crédit d'impôt à l'investissement non attribué aux commanditaires ou assimilés

Investment tax credit not allocated to limited partners

section (8), be considered to be the amount that may reasonably be considered to be that member's share of the amount described in paragraph (a).

Idem

(8.4) Notwithstanding subsection (8), where, pursuant to subsection (8) and (8.3) an amount would, but for this subsection, be required to be added in computing the investment tax credit of a taxpayer for a taxation year, where the taxpayer so elects in prescribed form and manner in his return of income (other than a return of income filed under subsection 70(2) or 104(23), paragraph 128(2)(e) or subsection 150(4)) under this Part for the year, such portion of the amount as is elected by the taxpayer shall, for the purposes of this section, be deemed not to have been required by subsection (8) to have been added in computing his investment tax credit at the end of the year.

(8.4) Par dérogation au paragraphe (8), lorsqu'un montant doit être ajouté conformément aux paragraphes (8) et (8.3) dans le calcul du crédit d'impôt à l'investissement d'un contribuable pour une année d'imposition, la partie de ce montant que choisit le contribuable, sur le formulaire réglementaire et de la manière réglementaire, dans sa déclaration de revenu en vertu de la présente partie pour son année d'imposition — à l'exclusion d'une déclaration de revenu produite en vertu du paragraphe 70(2) ou 104(23), de l'alinéa 128(2)e) ou du paragraphe 150(4) — est réputée, pour l'application du présent article, ne pas devoir être ajoutée conformément au paragraphe (8) dans le calcul de son crédit d'impôt à l'investissement à la fin de cette année.

Choix

Interpretation

(8.5) For the purposes of subsections (8.1) to (8.4), the words "at-risk amount" of a taxpayer and "limited partner" of a partnership have the meanings assigned to those words by subsections 96(2.2) and (2.4), respectively."

(8.5) Pour l'application des paragraphes (8.1) à (8.4), les expressions «commanditaire ou assimilé» et «fraction à risques» s'entendent au sens des paragraphes 96(2.4) et (2.2) respectivement.»

Définitions

(4) All that portion of subsection 127(9) of the said Act preceding the definition "approved project" is repealed and the following substituted therefor:

(4) Le passage du paragraphe 127(9) de la même loi qui précède la définition de «bien admissible» est abrogé et remplacé par ce qui suit :

Definitions

"(9) In this section and section 127.1,"

«(9) Les définitions qui suivent s'appliquent au présent article et à l'article 127.1 :»

Définitions

(5) The definition "approved project" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

(5) La définition d'«ouvrage approuvé», au paragraphe 127(9) de la même loi, est abrogée et remplacée par ce qui suit :

"approved project"
«ouvrage approuvé»

" "approved project" means a project with a total capital cost of depreciable property, determined without reference to subsection 13(7.1) or (7.4), of not less than \$25,000 that has, upon application in writing before July 1988, been approved by the Minister of Regional Industrial Expansion;"

«ouvrage approuvé» s'entend d'un ouvrage dont les biens amortissables ont un coût en capital total, calculé sans tenir compte du paragraphe 13(7.1) ou (7.4), d'au moins 25 000 \$ et qui est approuvé par le ministre de l'Expansion industrielle régionale sur demande écrite faite avant juillet 1988;"

«ouvrage approuvé»
"approved project"

(6) All that portion of the English version of the definition "approved project property"

(6) Le passage de la définition de «bien d'un ouvrage approuvé», au paragraphe

45

in subsection 127(9) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

“approved project property”
«bien d'un ouvrage approuvé»

““approved project property” of a taxpayer means property that is certified by the Minister of Regional Industrial Expansion to be property that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer, and to be” 10

(7) Paragraph (a) of the definition “certified property” in subsection 127(9) of the said Act is repealed and the following substituted therefor:

“(a) that was acquired by the taxpayer 15
(i) after October 28, 1980 and
(A) before 1987, or
(B) before 1988 where the property is
(I) a building under construction 20
before 1987, or
(II) machinery and equipment ordered in writing by the taxpayer before 1987, or
(ii) after 1986, other than a property 25
included in subparagraph (i),
and that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by him, and”

(8) Paragraph (a) of the definition 30
“investment tax credit” in subsection 127(9) of the said Act is repealed and the following substituted therefor:

“(a) the aggregate of all amounts each of which is the specified percentage of 35
(i) the capital cost to him of a qualified property, qualified transportation equipment, qualified construction equipment, approved project property or certified property acquired by him 40
in the year,
(ii) a qualified expenditure made by him in the year or,
(iii) his qualified Canadian exploration expenditure for the year,” 45

127(9) de la version anglaise de la même loi, qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :

““approved project property” of a taxpayer means property that is certified by the Minister of Regional Industrial Expansion to be property that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer and to be” 10

“approved project property”
«bien d'un ouvrage approuvé»

(7) L’alinéa a) de la définition de «bien certifié», au paragraphe 127(9) de la même loi, est abrogé et remplacé par ce qui suit :

“(a) qui a été acquis par le contribuable 15
(i) après le 28 octobre 1980 et
(A) soit avant 1987,
(B) soit avant 1988, si le bien est :
(I) un bâtiment en construction
avant 1987, ou
(II) une machine ou du matériel 20
que le contribuable a commandé par écrit avant 1987, ou
(ii) après 1986, sauf s’il s’agit d’un bien visé au sous-alinéa (i),
et qui, avant cette acquisition, n’a été 25
utilisé à aucune fin ni acquis pour être utilisé ou loué à quelque fin que ce soit, et»

(8) L’alinéa a) de la définition de «crédit d’impôt à l’investissement», au paragraphe 30
127(9) de la même loi, est abrogé et remplacé par ce qui suit :

“(a) de l’ensemble des montants dont chacun représente le pourcentage déterminé : 35
(i) du coût en capital pour le contribuable d’un bien admissible, de matériel de transport admissible, de matériel de construction admissible, d’un bien d’un ouvrage approuvé ou d’un 40
bien certifié, que le contribuable a acquis dans l’année,
(ii) d’une dépense admissible que le contribuable a faite dans l’année, ou
(iii) de la dépense admissible d’explo- 45
ration au Canada que le contribuable a faite pour l’année,»

(9) Subparagraph (c)(ii) of the definition "investment tax credit" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(ii) an amount determined under paragraph (a) or (b) in respect of the taxpayer for any of the 7 taxation years immediately preceding or the 3 taxation years immediately following the year, where the property was acquired, or the qualified expenditure was made, after April 19, 1983 or the qualified Canadian exploration expenditure was for a taxation year ending after November 30, 1985,"

(9) Le sous-alinéa c)(ii) de la définition de «crédit d'impôt à l'investissement», au paragraphe 127(9) de la même loi, est abrogé et remplacé par ce qui suit :

«(ii) un montant déterminé en vertu de l'alinéa a) ou b) à l'égard du contribuable pour une des 7 années d'imposition précédentes ou des 3 années d'imposition subséquentes, lorsque le bien a été acquis, ou la dépense admissible faite, après le 19 avril 1983 ou lorsque la dépense admissible d'exploration au Canada a été faite pour une année d'imposition se terminant après le 30 novembre 1985,»

(10) All that portion of the definition "qualified construction equipment" in subsection 127(9) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"qualified construction equipment" of a taxpayer means prescribed equipment acquired by him after April 19, 1983 and before 1989 that has not been used, or acquired for use or lease, for any purpose whatever before its acquisition by him and that is"

"qualified construction equipment"
«matériel de construction admissible»

(10) Le passage de la définition de «matériel de construction admissible», au paragraphe 127(9) de la même loi, qui précède l'alinéa a) est abrogé et remplacé par ce qui

«matériel de construction admissible» d'un contribuable s'entend du matériel prescrit qu'il a acquis après le 19 avril 1983 et avant 1989 et qui, avant cette acquisition, n'a été utilisé à aucune fin ni acquis pour être utilisé ou loué à quelque fin que ce soit, et»

«matériel de construction admissible»
"qualified construction equipment"

(11) All that portion of the definition "qualified transportation equipment" in subsection 127(9) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:

"qualified transportation equipment" of a taxpayer means prescribed equipment acquired by him after November 16, 1978 and before 1989 that has not been used, or acquired for use or lease, for any purpose whatever before it was acquired by the taxpayer and that is"

"qualified transportation equipment"
«matériel de transport admissible»

(11) Le passage de la définition de «matériel de transport admissible», au paragraphe 127(9) de la même loi, qui précède l'alinéa a) est abrogé et remplacé par ce qui suit :

«matériel de transport admissible» d'un contribuable s'entend du matériel prescrit qu'il a acquis après le 16 novembre 1978 et avant 1989 et qui, avant cette acquisition, n'a été utilisé à aucune fin ni acquis pour être utilisé ou loué à quelque fin que ce soit, et»

«matériel de transport admissible»
"qualified transportation equipment"

(12) Subparagraph (a)(iii) of the definition "specified percentage" in subsection 127(9) of the said Act is repealed and the following substituted therefor:

"(iii) acquired after November 16, 1978 primarily for use in the Province of Newfoundland, Prince Edward Island, Nova Scotia or New Brunswick or the Gaspé Peninsula, 20%,

(12) Le sous-alinéa a)(iii) de la définition de «pourcentage déterminé», au paragraphe 127(9) de la même loi, est abrogé et remplacé par ce qui suit :

«(iii) acquis après le 16 novembre 1978 pour être utilisé principalement dans les provinces de Terre-Neuve, de l'Île-du-Prince-Édouard, de la Nouvelle-Écosse ou du Nouveau-Brun-

(iv) acquired after November 16, 1978 and before February 26, 1986 primarily for use in a prescribed off-shore region, 7%,
 (v) acquired after February 25, 1986 primarily for use in a prescribed off-shore region, 20%,
 (vi) acquired primarily for use in a prescribed designated region and
 (A) after November 16, 1978 and before 1987, 10%,
 (B) in 1987, 7%,
 (C) in 1988, 3%, and
 (D) after 1988, 0%, and
 (vii) acquired primarily for use in Canada (other than a property described in subparagraph (iii), (iv), (v) or (vi)), and
 (A) after November 16, 1978 and before 1987, 7%,
 (B) in 1987, 5%,
 (C) in 1988, 3%, and
 (D) after 1988, 0%,"

wick ou dans la péninsule de Gaspé, 20 %,
 (iv) acquis après le 16 novembre 1978 mais avant le 26 février 1986 pour être utilisé principalement dans une zone extracôtière visée par règlement, 7 %,
 (v) acquis après le 25 février 1986 pour être utilisé principalement dans une zone extracôtière visée par règlement, 20 %,
 (vi) acquis pour être utilisé principalement dans une région désignée prescrite,
 (A) après le 16 novembre 1978 mais avant 1987, 10 %,
 (B) en 1987, 7 %,
 (C) en 1988, 3 %,
 (D) après 1988, zéro,
 (vii) acquis pour être utilisé principalement au Canada — sauf s'il s'agit d'un bien visé au sous-alinéa (iii), (iv), (v) ou (vi) —,
 (A) après le 16 novembre 1978 mais avant 1987, 7 %,
 (B) en 1987, 5 %,
 (C) en 1988, 3 %,
 (D) après 1988, zéro,"

(13) Paragraphs (b) to (d) of the definition "specified percentage" in subsection 127(9) of the said Act are repealed and the following substituted therefor:

"(b) in respect of qualified transportation equipment acquired
 (i) before 1987, 7%
 (ii) in 1987, 5%, and
 (iii) in 1988, 3%,
 (c) in respect of qualified construction equipment acquired
 (i) before 1987, 7%,
 (ii) in 1987, 5%, and
 (iii) in 1988, 3%,
 (d) in respect of certified property
 (i) included in subparagraph (a)(i) of the definition "certified property",
 50%, and
 (ii) in any other case, 40%,"

(14) The definition "specified percentage" in subsection 127(9) of the said Act is further amended by striking out the word "and"

(13) Les alinéas b) à d) de la définition de «pourcentage déterminé», au paragraphe 127(9) de la même loi, sont abrogés et remplacés par ce qui suit :

«b) dans le cas de matériel de transport admissible acquis
 (i) avant 1987, 7 %,
 (ii) en 1987, 5 %,
 (iii) en 1988, 3 %,
 c) dans le cas de matériel de construction admissible acquis
 (i) avant 1987, 7 %,
 (ii) en 1987, 5 %,
 (iii) en 1988, 3 %,
 d) dans le cas de biens certifiés,
 (i) s'ils sont visés au sous-alinéa a)(i) de la définition de «bien certifié»,
 50 %,
 (ii) sinon, 40 %,»

(14) La définition de «pourcentage déterminé», au paragraphe 127(9) de la même loi, est modifiée par adjonction de ce qui suit :

at the end of paragraph (f) thereof, by adding the word "and" at the end of paragraph (g) thereof and by adding thereto the following paragraph:

"(h) in respect of the qualified Canadian exploration expenditure of a taxpayer for a taxation year, 25%."

«h) dans le cas de la dépense admissible d'exploration au Canada faite par un contribuable pour une année d'imposition, 25 %.»

(15) Subsection 127(9) of the said Act is further amended by adding thereto, in alphabetical order within the subsection, the following definition:

(15) Le paragraphe 127(9) de la même loi est modifié par insertion, suivant l'ordre alphabétique, de ce qui suit :

"qualified Canadian exploration expenditure" of a taxpayer for a taxation year means the prescribed expenditure of the taxpayer for the year;"

«dépense admissible d'exploration au Canada» s'entend de la dépense prescrite qu'un contribuable fait pour une année d'imposition;"

"qualified Canadian exploration expenditure" «dépense admissible d'exploration au Canada»

«dépense admissible d'exploration au Canada» "qualified Canadian exploration expenditure"

(16) Subsection 127(11.1) of the said Act is amended by striking out the word "and" at the end of paragraph (c) thereof and by adding thereto, immediately after paragraph (c) thereof, the following paragraph:

(16) Le paragraphe 127(11.1) de la même loi est modifié par suppression du mot «et» à la fin de l'alinéa c) et par insertion, après cet alinéa, de ce qui suit :

"(c.1) the amount of a taxpayer's qualified Canadian exploration expenditure for a taxation year shall be deemed to be the amount of his qualified Canadian exploration expenditure for the year as otherwise determined less the amount of any government assistance, non-government assistance or contract payment (other than assistance under the *Petroleum Incentives Program Act* or the *Petroleum Incentives Program Act*, Chapter P-4.1 of the Statutes of Alberta, 1981) in respect of expenditures included in determining his qualified Canadian exploration expenditure for the year that, at the time of the filing of his return of income for the year, he has received, is entitled to receive or can reasonably be expected to receive; and"

«c.1) la dépense admissible d'exploration au Canada faite par un contribuable pour une année d'imposition est réputée être diminuée de tout montant que, à la date de production de sa déclaration de revenu pour l'année, le contribuable a reçu, est en droit de recevoir ou peut raisonnablement s'attendre à recevoir, à titre d'aide gouvernementale, d'aide non gouvernementale ou de paiement contractuel — à l'exception d'une subvention en vertu de la *Loi sur le programme d'encouragement du secteur pétrolier* ou de la loi intitulée *Petroleum Incentives Program Act*, chapitre P-4.1 des lois intitulées *Statutes of Alberta, 1981* de l'Alberta — au titre de frais compris dans le calcul de cette dépense admissible d'exploration au Canada; et»

(17) Section 127 of the said Act is further amended by adding thereto, immediately after subsection (12.2) thereof, the following subsection:

(17) L'article 127 de la même loi est modifié par insertion, après le paragraphe (12.2), de ce qui suit :

"(12.3) For the purposes of subparagraph 66.1(6)(b)(ix), where, pursuant to a designation by a trust, an amount is required by subsection (7) to be added in computing the investment tax credit of a

«(12.3) Pour l'application du sous-alinéa 66.1(6)b)(ix), lorsqu'un montant attribué par une fiducie doit être ajouté en vertu du paragraphe (7) dans le calcul du crédit d'impôt à l'investissement d'un con-

Idem

Idem

taxpayer at the end of his taxation year, the portion thereof that can reasonably be considered to relate to a qualified Canadian exploration expenditure of the trust for a taxation year shall be deemed to have been received by the trust at the end of its taxation year in respect of which the designation was made as assistance from a government in respect of that expenditure.”

tribuable à la fin de l'année d'imposition de celui-ci, la partie de ce montant qu'il est raisonnable de considérer comme se rapportant à une dépense admissible d'exploration au Canada faite par la fiducie pour une année d'imposition est réputée reçue par la fiducie à la fin de son année d'imposition pour laquelle le montant est attribué à titre d'aide gouvernementale au titre de cette dépense.»

(18) Subsection (1) is applicable to designations of amounts determined in respect of a trust in respect of property acquired and expenditures made by the trust after 11:00 a.m., Eastern Daylight Time, October 3, 1986, other than designations of amounts determined in respect of property acquired, and expenditures made, by an *inter-vivos* trust after that time and before 1987 where

(a) the trust was obliged to acquire the property or make the expenditure pursuant to an agreement in writing entered into by the trust before that time,

(b) the beneficiary of the trust, in respect of whom the designation is made, was a beneficiary of the trust before that time or became a beneficiary of the trust after that time and before 1987 pursuant to an obligation to do so contained in an agreement in writing entered into by the beneficiary before that time, and

(c) neither of the agreements referred to in paragraph (a) or (b) was subject to a condition,

except that the benefit of any designation of an amount determined in respect of property acquired or expenditures made by an *inter-vivos* trust after that time shall be taken into account only for the purpose of Part I of the said Act in respect of the beneficiary and not of any other person and shall not be taken into account for the purposes of paragraph 87(2)(qq) of the said Act.

(19) Subsections (2), (8) and (14) to (17) are applicable with respect to expenditures made after November 30, 1985.

(20) Subsections (3), (7) and (10) to (13) are applicable after February 25, 1986.

(18) Le paragraphe (1) s'applique aux attributions de montants déterminés à l'égard d'une fiducie relativement aux biens acquis et aux dépenses faites par la fiducie après 11 heures, heure avancée de l'Est, le 3 octobre 1986, à l'exclusion des attributions de montants déterminés relativement aux biens acquis et aux dépenses faites par une fiducie non testamentaire après ce moment et avant 1987 si :

a) la fiducie avait l'obligation d'acquiescer les biens ou de faire les dépenses conformément à une convention écrite qu'elle a conclue avant ce moment;

b) le bénéficiaire de la fiducie, à qui le montant est attribué, était bénéficiaire de celle-ci avant ce moment ou en est devenu bénéficiaire après ce moment et avant 1987 conformément à une obligation à cet effet prévue dans une convention écrite qu'il a conclue avant ce moment; et

c) ni l'une ni l'autre des conventions visées aux alinéas a) et b) n'est assortie d'une condition.

Toutefois, l'avantage que représente l'attribution d'un montant déterminé relativement aux biens acquis ou aux dépenses faites par une fiducie non testamentaire après ce moment, d'une part, est pris en compte seulement pour l'application de la partie I de la même loi au bénéficiaire et non pour son application à une autre personne et, d'autre part, n'est pas pris en compte pour l'application de l'alinéa 87(2)qq) de la même loi.

(19) Les paragraphes (2), (8) et (14) à (17) s'appliquent aux dépenses effectuées après le 30 novembre 1985.

(20) Les paragraphes (3), (7) et (10) à (13) s'appliquent après le 25 février 1986.

(21) Subsections (4) and (6) are applicable after May 23, 1985.

(22) Subsection (5) is applicable with respect to projects approved after February 25, 1986.

(23) Subsection (9) is applicable to taxation years ending after November, 1982.

50. (1) Clauses (a)(iv)(A) and (B) of the definition "refundable investment tax credit" in subsection 127.1(2) of the said Act are repealed and the following substituted therefor:

"(A) in respect of property acquired, or an expenditure made (other than a qualified Canadian exploration expenditure or an expenditure in respect of which an amount is included under subparagraph (vi) or (b)(ii) in computing his refundable investment tax credit for the year), by him in the year and after April 19, 1983 and before 1989,

(B) pursuant to paragraph (b) of the definition "investment tax credit" in subsection 127(9) in respect of a property acquired, or an expenditure made (other than a qualified Canadian exploration expenditure or an expenditure in respect of which an amount is included under subparagraph (vi) or (b)(ii) in computing his refundable investment tax credit for the year), by him in the year and after April 19, 1983 and before 1989, or

(C) where the taxation year commences before 1989,

(I) in respect of his qualified Canadian exploration expenditure for the year, or

(II) pursuant to paragraph (b) of the definition "investment tax credit" in subsection 127(9) in respect of a qualified Canadian exploration expenditure for the year,

other than an amount included under subparagraph (b)(iii)"

(21) Les paragraphes (4) et (6) s'appliquent après le 23 mai 1985.

(22) Le paragraphe (5) s'applique aux ouvrages approuvés après le 25 février 1986.

(23) Le paragraphe (9) s'applique aux années d'imposition se terminant après novembre 1982.

50. (1) Les divisions a)(iv)(A) et (B) de la définition de «crédit d'impôt à l'investissement remboursable», au paragraphe 127.1(2) de la même loi, sont abrogées et remplacées par ce qui suit :

«(A) au titre d'un bien qu'il acquiert, ou d'une dépense qu'il fait (à l'exclusion de la dépense admissible d'exploration au Canada et d'une dépense à l'égard de laquelle un montant est inclus en vertu du sous-alinéa (vi) ou b)(ii) dans le calcul du crédit d'impôt à l'investissement remboursable du contribuable pour l'année), dans l'année, après le 19 avril 1983 et avant 1989,

(B) au titre d'un bien qu'il acquiert, ou d'une dépense qu'il fait (à l'exclusion de la dépense admissible d'exploration au Canada et d'une dépense à l'égard de laquelle un montant est inclus en vertu du sous-alinéa (vi) ou b)(ii) dans le calcul du crédit d'impôt à l'investissement remboursable du contribuable pour l'année), dans l'année après le 19 avril 1983 et avant 1989, conformément à l'alinéa b) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9), ou

(C) lorsque l'année d'imposition commence avant 1989 et à l'exclusion des montants inclus en vertu du sous-alinéa b)(iii),

(I) au titre de la dépense admissible d'exploration au Canada que le contribuable a faite pour l'année, ou

(II) au titre de la dépense admissible d'exploration au Canada faite pour l'année, conformément

(2) Paragraph (b) of the definition “refundable investment tax credit” in subsection 127.1(2) of the said Act is repealed and the following substituted therefor:

“(b) in the case of any other taxpayer, 5
the aggregate of

- (i) 20% of the amount, if any, calculated for the year in respect of that other taxpayer, by which the aggregate determined under subparagraph 10 (a)(iv) exceeds the aggregate determined under subparagraph (a)(v),
- (ii) 40% of the amount, if any, by which

(A) the aggregate of all amounts 15
each of which is an amount included in computing his investment tax credit at the end of the year

- (I) in respect of an approved project property acquired by him 20
in the year and before 1989, or
- (II) pursuant to paragraph (b) of the definition “investment tax credit” in subsection 127(9) in respect of an approved project 25
property acquired before 1989,

exceeds

(B) the aggregate of

- (I) such portion of the aggregate of all amounts each of which is 30
an amount deducted by him under subsection 127(5) for the year or a preceding taxation year (other than an amount deemed by subsection (3) to be so deduct- 35
ed for the year) as may reasonably be considered to be in respect of the aggregate determined under clause (A), and
- (II) such portion of the aggre- 40
gate of all amounts each of which is an amount required by subsection 127(6) or (7) to be deducted in computing its investment tax credit at the end of the 45
year as may reasonably be considered to be in respect of the

à l’alinéa b) de la définition de
«crédit d’impôt à l’investissement» au paragraphe 127(9),»

(2) L’alinéa b) de la définition de «crédit d’impôt à l’investissement remboursable», au 5
paragraphe 127.1(2) de la même loi, est abrogé et remplacé par ce qui suit :

«b) s’il s’agit d’un autre contribuable, le
total des montants suivants :

- (i) 20 % de l’excédent éventuel, cal- 10
culé pour l’année à son égard, du total calculé selon le sous-alinéa a)(iv) sur le total calculé selon le sous-alinéa a)(v),

- (ii) 40 % de l’excédent éventuel 15
(A) du total des montants dont chacun représente un montant inclus dans le calcul de son crédit d’impôt à l’investissement à la fin de l’année 20

(I) au titre d’un bien d’un ouvrage approuvé qu’il acquiert dans l’année et avant 1989, ou

(II) au titre d’un bien d’un ouvrage approuvé acquis avant 25
1989, conformément à l’alinéa b) de la définition de «crédit d’impôt à l’investissement» au paragraphe 127(9),

sur

(B) le total

(I) de la partie du total des montants dont chacun représente un montant qu’il a déduit en vertu du paragraphe 127(5) pour l’an- 35
née ou pour une année d’imposition antérieure — à l’exception d’un montant réputé selon le paragraphe (3) déduit pour l’année —, qu’il est raisonnable de 40
considérer comme s’appliquant au total calculé à la division (A), et

(II) de la partie du total des montants dont chacun représente 45
un montant à déduire, selon le paragraphe 127(6) ou (7), dans le calcul de son crédit d’impôt à l’investissement à la fin de l’année, qu’il est raisonnable de con- 50

aggregate determined under clause (A), and		sidérer comme s'appliquant au total calculé à la division (A),	
(iii) where the taxation year commences before 1989, 40% of the amount, if any, by which	5	(iii) lorsque l'année d'imposition commence avant 1989, 40 % de l'excédent éventuel	5
(A) the aggregate of all amounts each of which is an amount included in computing his investment tax credit at the end of the year		(A) du total des montants dont chacun représente un montant inclus dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année	10
(I) in respect of his qualified Canadian exploration expenditure for the year, or	10	(I) au titre de la dépense admissible d'exploration au Canada qu'il a faite pour l'année, ou	
(II) pursuant to paragraph (b) of the definition "investment tax credit" in subsection 127(9) in respect of a qualified Canadian exploration expenditure for the year,	15	(II) au titre de la dépense admissible d'exploration au Canada faite pour l'année, conformément à l'alinéa b) de la définition de «crédit d'impôt à l'investissement» au paragraphe 127(9),	15
exceeds		sur	20
(B) the aggregate of	20	(B) le total	
(I) such portion of the aggregate of all amounts each of which is an amount deducted by him under subsection 127(5) for the year or a preceding taxation year (other than an amount deemed by subsection (3) to be so deducted for the year) as may reasonably be considered to be in respect of the aggregate determined under clause (A), and	25	(I) de la partie du total des montants dont chacun représente un montant qu'il a déduit en vertu du paragraphe 127(5) pour l'année ou pour une année d'imposition antérieure — à l'exception d'un montant réputé selon le paragraphe (3) déduit pour l'année —, qu'il est raisonnable de considérer comme s'appliquant au total calculé à la division (A), et	25
(II) such portion of the aggregate of all amounts each of which is an amount required by subsection 127(6) or (7) to be deducted in computing his investment tax credit at the end of the year as may reasonably be considered to be in respect of the aggregate determined under clause (A)."	30	(II) de la partie du total des montants dont chacun représente un montant à déduire, selon le paragraphe 127(6) ou (7), dans le calcul de son crédit d'impôt à l'investissement à la fin de l'année, qu'il est raisonnable de considérer comme s'appliquant au total calculé à la division (A)."	35
	40		40

(3) Subsections (1) and (2) are applicable after May 23, 1985 except that

(a) in its application after May 23, 1985 and before December 1985, subparagraph (a)(iv) of the definition "refundable investment tax credit" in subsection 127.1(2) of the said Act, as enacted by subsection (1), shall be read without reference to the words "a qualified Canadian

(3) Les paragraphes (1) et (2) s'appliquent après le 23 mai 1985. Toutefois, pour l'application après le 23 mai 1985 et avant décembre 1985 :

a) du sous-alinéa a)(iv) de la définition de «crédit d'impôt à l'investissement remboursable», au paragraphe 127.1(2) de la même loi, édicté par le paragraphe (1), il n'est tenu compte ni de la mention «la dépense

exploration expenditure or” in clauses (A) and (B) thereof and without reference to clause (C) thereof; and

(b) in its application after May 23, 1985 and before December 1985, paragraph (b) of the definition “refundable investment tax credit” in subsection 127.1(2) of the said Act, as enacted by subsection (2), shall be read without reference to subparagraph (iii) thereof.

51. (1) The said Act is further amended by adding thereto, immediately after section 127.4 thereof, the following Division:

“DIVISION E.1
MINIMUM TAX

127.5 Notwithstanding any other provision of this Act, where the amount that, but for sections 120 and 120.1, would be determined under Division E to be the tax payable by an individual for a taxation year is less than the amount determined under subparagraph (a)(i) in respect of the individual, the tax payable under this Part for the year by the individual (other than a related segregated fund trust within the meaning assigned by paragraph 138.1(1)(a) or a mutual fund trust) is the amount, if any, by which

(a) the aggregate of

(i) the amount, if any, by which the minimum amount for the year of the individual determined under section 127.51 exceeds his special foreign tax credit determined under section 127.54 for the year, and

(ii) the aggregate of all amounts required under sections 120 and 120.1 to be added to the tax otherwise payable under this Part by him for the year

exceeds

(b) the amount, if any, that may be deducted under subsection 120.1(1) from the tax otherwise payable under this Part by him for the year.

127.51 An individual’s minimum amount for a taxation year is 17% of the amount, if any, by which his adjusted tax-

admissible d’exploration au Canada et» aux divisions a)(iv)(A) et (B), ni de la division a)(iv)(C);

b) de l’alinéa b) de la même définition, édicté par le paragraphe (2), il n’est pas tenu compte du sous-alinéa b)(iii).

51. (1) La même loi est modifiée, par insertion, après l’article 127.4, de ce qui suit :

«SECTION E.1
IMPÔT MINIMUM

127.5 Nonobstant les autres dispositions de la présente loi, lorsque l’impôt payable par un particulier, calculé selon la section E abstraction faite des articles 120 et 120.1, pour une année d’imposition est inférieur à l’excédent visé au sous-alinéa a)(i) concernant ce particulier, l’impôt payable en vertu de la présente partie pour l’année par celui-ci — sauf s’il s’agit d’une fiducie créée à l’égard d’un fonds réservé au sens de l’alinéa 138.1(1)a) ou d’une fiducie de fonds mutuels — est égal à 20 l’excédent éventuel

a) du total

(i) de l’excédent éventuel de l’impôt minimum applicable à ce particulier pour l’année, calculé selon l’article 127.51, sur son crédit spécial pour impôts étrangers pour l’année, calculé selon l’article 127.54, et

(ii) des montants que les articles 120 et 120.1 prévoient d’ajouter à son impôt payable par ailleurs en vertu de la présente partie pour l’année,

sur

b) le montant éventuellement déductible selon le paragraphe 120.1(1) de cet impôt payable par ailleurs pour l’année.

127.51 L’impôt minimum applicable à un particulier pour une année d’imposition est établi au taux de 17% sur l’excédent

Obligation to pay minimum tax

Assujettissement à l'impôt minimum

Minimum amount determined

Taux de l'impôt minimum

able income for the year determined under section 127.52 exceeds his basic exemption for the year as determined under section 127.53.

Adjusted
taxable income
determined

127.52 (1) Subject to subsection (2), an individual's adjusted taxable income for a taxation year is the amount that would be his taxable income for the year or his taxable income earned in Canada for the year, as the case may be, if it were computed on the assumption that

(a) the aggregate of all amounts deductible under any of paragraphs 8(1)(m) and (m.1) and 60(i) to (k) in computing his income for the year were the lesser of

(i) the aggregate of the amounts otherwise so deductible by him, and
(ii) the aggregate of all amounts each of which was included in computing his income for the year and which is a single payment out of or pursuant to a deferred profit sharing plan or a superannuation or pension fund or plan

(A) upon the death, withdrawal from the fund or plan or termination of employment of a person,
(B) upon the winding-up of the fund or plan in full satisfaction of all rights of the payee in or under the fund or plan, or
(C) to which he is entitled by virtue of an amendment to the fund or plan;

(b) the aggregate of all amounts deductible by him under paragraph 20(1)(a) for the year in respect of residential properties were the lesser of the aggregate of all amounts otherwise so deductible by him for the year and the amount, if any, by which

(i) the aggregate of his incomes for the year from the renting or leasing of residential properties owned by him or by a partnership, computed without reference to paragraph 20(1)(a),

exceeds

éventuel du revenu imposable modifié du particulier pour l'année, calculé selon l'article 127.52, sur son exemption de base pour l'année, calculée selon l'article 127.53.

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127.52 (1) Sous réserve du paragraphe (2), le revenu imposable modifié d'un particulier pour une année d'imposition correspond à son revenu imposable ou son revenu imposable gagné au Canada, selon le cas, déterminé pour l'année en présumant ce qui suit :

Revenu
imposable
modifié

a) le total des montants déductibles en vertu des alinéas 8(1)m) et m.1) et 60i) à k) dans le calcul du revenu du particulier pour l'année est le moindre

(i) du total des montants ainsi déductibles par ailleurs,
(ii) du total des paiements uniques inclus dans le calcul du revenu du particulier pour l'année et provenant ou effectués en vertu de quelque régime ou caisse de retraite ou de pension ou de quelque régime de participation différée aux bénéfices, dans les cas suivants :

(A) le décès d'une personne, son retrait du régime ou de la caisse ou la fin de son emploi,
(B) la liquidation du régime ou de la caisse, en règlement définitif de tous les droits du bénéficiaire dans le régime ou la caisse ou en vertu du régime ou de la caisse,
(C) une modification au régime ou à la caisse donnant au particulier droit à un paiement unique;

b) le total des montants déductibles par le particulier pour l'année, par application de l'alinéa 20(1)a), en ce qui concerne des immeubles d'habitation est le moindre du total des montants ainsi déductibles par ailleurs ou de l'excédent éventuel

(i) du total des revenus du particulier pour l'année provenant de la location des immeubles d'habitation dont le particulier ou une société est propriétaire, calculés sans égard à l'alinéa 20(1)a),

50

(ii) the aggregate of his losses for the year from the renting or leasing of residential properties owned by him or by a partnership, computed without reference to paragraph 20(1)(a); 5

(c) the aggregate of all amounts deductible by him under paragraph 20(1)(a) for the year in respect of film properties were the lesser of the aggregate of all amounts otherwise so deduct- 10
ible by him for the year and the amount, if any, by which

(i) the aggregate of his incomes for the year from the renting or leasing of film properties owned by him or by a 15
partnership, computed without reference to paragraph 20(1)(a),

exceeds

(ii) the aggregate of his losses for the year from the renting or leasing of 20
film properties owned by him or by a partnership, computed without reference to paragraph 20(1)(a);

(d) sections 38 and 41 were read without the references therein to "1/2 of" in 25
respect of dispositions of property occurring after 1985;

(e) the aggregate of all amounts deductible under section 65, 66, 66.1, 66.2 or 66.4 or under subsection 29(10) 30
or (12) of the *Income Tax Application Rules, 1971* in computing his income for the year were the lesser of the amounts otherwise so deductible by him for the year and the aggregate of 35

(i) his income for the year from royalties in respect of, and such part of his income, other than royalties, for the year as may reasonably be considered as attributable to, the produc- 40
tion of petroleum, natural gas and minerals, determined before deducting those amounts, and

(ii) all amounts included in computing his income for the year under 45
section 59;

(f) subsection 82(1) were read without reference to that portion following paragraph (a) thereof;

sur

(ii) le total des pertes subies par le particulier pour l'année qui proviennent de la location de ces immeubles, calculées sans égard à l'alinéa 5
20(1)a);

c) le total des montants déductibles par le particulier pour l'année, par application de l'alinéa 20(1)a), en ce qui concerne des productions cinématographi- 10
ques est le moindre du total des montants ainsi déductibles par ailleurs ou de l'excédent éventuel

(i) du total des revenus du particulier pour l'année provenant de la location 15
des productions dont le particulier ou une société est propriétaire, calculés sans égard à l'alinéa 20(1)a),

sur

(ii) le total des pertes subies par le 20
particulier pour l'année qui proviennent de la location de ces productions, calculées sans égard à l'alinéa 20(1)a);

d) toute référence à une moitié est sup- 25
primée aux articles 38 et 41 pour les dispositions de biens ayant lieu après 1985;

e) le total des montants déductibles selon les articles 65, 66, 66.1, 66.2 et 30
66.4 et selon les paragraphes 29(10) et (12) des *Règles de 1971 concernant l'application de l'impôt sur le revenu* dans le calcul du revenu du particulier pour l'année est le moindre des mon- 35
tants ainsi déductibles par ailleurs ou du total :

(i) de son revenu pour l'année tiré de redevances relatives à la production de pétrole, gaz naturel ou minéraux, 40
additionné de la partie de son revenu pour l'année, non tiré de redevances, qu'il est raisonnable de considérer comme attribuable à une telle production, calculés l'un et l'autre avant que 45
ces déductions soient faites,

(ii) des montants inclus dans le calcul de son revenu pour l'année en vertu de l'article 59;

(g) any amount designated by a trust under subsection 104(21) for the year were equal to twice that amount and section 104 provided, in addition to any other deduction under that section, a deduction in computing the income of the trust for the year equal to that amount;

(h) the only amounts deductible under sections 109 to 110.6 in computing his taxable income for the year or his taxable income earned in Canada for the year, as the case may be, were the amounts deducted under any of subsection 109(1), paragraphs 110(1)(a) to (c), (e), (f), (g) and (i) and subsections 110(2), 110.4(1) and 110.6(2) and (3) computed without reference to this section;

(i) the only amounts deductible under subsection 111(1) in computing his taxable income for the year or his taxable income earned in Canada for the year, as the case may be, were

- (i) the amounts that would be deductible under paragraphs 111(1)(a), (c) and (d) if paragraphs (b), (c) and (e) of this subsection were applicable in computing the aggregate referred to in subparagraph 111(8)(b)(i) for any taxation year commencing after 1985, and
- (ii) the amounts that would be deductible under paragraph 111(1)(b) if paragraph (d) of this subsection were applicable in computing the aggregate referred to in paragraph 111(8)(a) for any taxation year commencing after 1985; and

(j) the *Income Tax Application Rules*, 1971 were read without reference to section 40 thereof.

(2) For the purposes of paragraphs (1)(b) and (c), where an individual was a member of a partnership at the end of its fiscal period, any amount deducted by a partnership as a deduction under paragraph 20(1)(a) in respect of a residential property or a film property in computing its income shall, to the extent of his share

f) il n'est pas tenu compte de la majoration prévue par le passage du paragraphe 82(1) qui suit l'alinéa a);

g) tout montant attribué par une fiducie en application du paragraphe 104(21) pour l'année est multiplié par deux et, en plus de toute autre déduction prévue à l'article 104, le montant ainsi doublé est déductible dans le calcul du revenu de la fiducie pour l'année;

h) les seuls montants déductibles selon les articles 109 à 110.6 dans le calcul, pour l'année, du revenu imposable ou du revenu imposable gagné au Canada, selon le cas, du particulier sont les montants déduits selon le paragraphe 109(1), les alinéas 110(1)a) à c), e), f), g) et i) et les paragraphes 110(2), 110.4(1) et 110.6(2) et (3), calculés sans tenir compte du présent article;

i) les seuls montants déductibles selon le paragraphe 111(1) dans le calcul, pour l'année, du revenu imposable ou du revenu imposable gagné au Canada, selon le cas, du particulier sont :

- (i) d'une part, les montants déductibles selon les alinéas 111(1)a), c) et d) en présupposant que les alinéas b), c) et e) du présent paragraphe s'appliquent au calcul du total visé au sous-alinéa 111(8)b)(i) pour une année d'imposition commençant après 1985,
- (ii) d'autre part, les montants déductibles selon l'alinéa 111(1)b) en présupposant que l'alinéa d) du présent paragraphe s'applique au calcul du total visé à l'alinéa 111(8)a) pour une année d'imposition commençant après 1985;

j) il n'est pas tenu compte de l'article 40 des *Règles de 1971 concernant l'application de l'impôt sur le revenu*.

(2) Pour l'application des alinéas (1)b) et c), toute déduction, concernant un immeuble d'habitation ou une production cinématographique, faite par une société par application de l'alinéa 20(1)a) dans le calcul de son revenu est réputée faite, à concurrence de leur part, par les particuliers qui sont les associés d'une société à la

	thereof, be deemed to have been deducted by the individual under that paragraph in computing his income in respect of the property for the taxation year in which the fiscal period ended.	5	fin de l'exercice financier de celle-ci dans le calcul du revenu de chacun provenant de cet immeuble ou de cette production pour l'année d'imposition au cours de laquelle cet exercice se termine.	5
Definitions	(3) For the purposes of this section,		(3) Pour l'application du présent article :	Définitions
"film property" «production cinématogra- phique»	"film property" means a property described in paragraph (n) of Class 12 of Schedule II to the <i>Income Tax Regulations</i> ;	10	«immeuble d'habitation» s'entend d'un bien de la catégorie 31 ou 32 de l'annexe II du <i>Règlement de l'impôt sur le</i>	«immeuble d'habitation» "residential property"
"residential property" «immeuble d'habitation»	"residential property" means a property described in Class 31 or 32 of Schedule II to the <i>Income Tax Regulations</i> and furniture, fixtures and equipment, if any, located therein and ancillary thereto.	15	revenu ainsi que des meubles meublants, de l'appareillage et du matériel situés à l'intérieur et accessoires à ce bien; «production cinématographique» s'entend d'un bien visé à l'alinéa n) de la catégo- rie 12 de l'annexe II du même règlement.	15 «production cinématogra- phique» "film property"
Basic exemp- tion	127.53 (1) An individual's basic exemp- tion for a taxation year is (a) \$40,000, in the case of an individual other than a trust; (b) \$40,000, in the case of a testamen- tary trust or an <i>inter vivos</i> trust described in subsection 122(2); and (c) in any other case, nil.	20	127.53 (1) L'exemption de base d'un particulier qui n'est pas une fiducie — sauf une fiducie testamentaire ou une fidu- cie non testamentaire visée au paragraphe 122(2) — est de 40 000 \$ par année d'imposition; aucune exemption de base n'est accordée aux autres particuliers.	20 Exemption de base
Multiple trusts	(2) Notwithstanding paragraph (1)(b), where more than one trust described in that paragraph arose as a consequence of contributions to the trusts by an individual and those trusts have filed with the Minister in prescribed form an agreement whereby, for the purpose of this Division, they allocate an amount to one or more of them for a taxation year and the aggregate of the amounts so allocated does not exceed \$40,000, the basic exemption for the year of each of the trusts is the amount so allocated to it.	25	(2) Par dérogation au paragraphe (1), dans le cas où plusieurs fiducies — s'agissant de fiducies testamentaires et de fiducies non testamentaires visées au paragraphes 122(2) — prennent effet par suite d'apports à celles-ci par un même particulier, ces fiducies peuvent produire au ministre, sur le formulaire réglementaire, un accord par lequel, pour l'application de la présente section, elles attribuent à l'une d'elles ou répartissent entre plusieurs d'entre elles l'exemption de base de 40 000 \$ par année d'imposition.	25 Exemption de base en cas de fiducies multiples
Failure to file agreement	(3) Notwithstanding paragraph (1)(b), where more than one trust described in that paragraph arose as a consequence of contributions to the trusts by an individual and no agreement as contemplated by subsection (2) has been filed with the Minister before the expiry of 30 days after notice in writing has been forwarded by the Minister to any of the trusts that such an agreement is required for the purpose	40	(3) À défaut de production d'un accord conforme au paragraphe (2) au ministre dans les 30 jours suivant avis écrit — envoyé par celui-ci à l'une des fiducies mentionnées à ce paragraphe — qu'un accord est nécessaire à l'établissement d'une cotisation d'impôt en vertu de la présente partie, le ministre peut, pour l'ap- plication de la présente section, attribuer à l'une de ces fiducies ou répartir entre plu-	40 Exemption de base à défaut d'accord

of an assessment of tax under this Part, the Minister may, for the purpose of this Division, allocate an amount to one or more of the trusts for a taxation year, the aggregate of all of which amounts does not exceed \$40,000, and the basic exemption for the year of each of the trusts is the amount so allocated to it.

Definitions

"foreign income"
«revenu de source étrangère»

127.54 (1) In this section,

"foreign income" of an individual for a 10
taxation year means the aggregate of

- (a) his incomes for the year from businesses carried on by him in countries other than Canada, and
- (b) his incomes for the year from 15
sources in countries other than Canada in respect of which he has paid non-business-income taxes, within the meaning assigned by paragraph 126(7)(c), to governments of 20
countries other than Canada;

"foreign taxes"
«impôts payés à l'étranger»

"foreign taxes" of an individual for a taxation year means the aggregate of the business-income taxes, within the meaning assigned by paragraph 126(7)(a), 25
paid by him for the year in respect of businesses carried on by him in countries other than Canada and 2/3 of the non-business-income taxes, within the meaning assigned by paragraph 30
126(7)(c), paid by him for the year to the governments of countries other than Canada.

Foreign tax credit

(2) For the purposes of section 127.5, an individual's special foreign tax credit for a 35
taxation year is the greater of

- (a) the aggregate of all amounts deductible under section 126 from his tax for the year, and
- (b) the lesser of 40
 - (i) his foreign taxes for the year, and
 - (ii) 17% of his foreign income for the year.

Application of section 127.5

127.55 Section 127.5 does not apply in respect of 45

- (a) a return of income of an individual filed under subsection 70(2), paragraph

sieurs d'entre elles l'exemption de base de 40 000 \$ par année d'imposition.

127.54 (1) Pour l'application du présent article :

Définitions applicables au crédit spécial pour impôts étrangers

«impôts payés à l'étranger» s'entend du total, pour une année d'imposition, des impôts payés par un particulier sur son revenu tiré d'entreprises, au sens de l'alinéa 126(7)a), qu'il exploite dans d'autres pays que le Canada et des 2/3 10
des impôts payés par ce particulier sur son revenu ne provenant pas d'entreprises, au sens de l'alinéa 126(7)c), aux gouvernements d'autres pays que le Canada; 15

«revenu de source étrangère» s'entend du total, pour une année d'imposition, des revenus qu'un particulier tire d'entreprises qu'il exploite dans d'autres pays que le Canada et des revenus de sources 20
situées dans d'autres pays que le Canada sur lesquels il a payé aux gouvernements d'autres pays que le Canada des impôts sur le revenu ne provenant pas d'entreprises au sens de l'alinéa 126(7)c). 25

5 «impôts payés à l'étranger»
"foreign taxes"

«revenu de source étrangère»
"foreign income"

(2) Pour l'application de l'article 127.5, le crédit spécial pour impôts étrangers d'un particulier pour une année d'imposition correspond au plus élevé :

Crédit spécial pour impôts étrangers

- a) du total des montants déductibles de 30
l'impôt du particulier pour l'année en vertu de l'article 126;
- b) du moindre : 35
 - (i) de ses impôts payés à l'étranger pour l'année,
 - (ii) de 17 % de son revenu de source étrangère pour l'année.

127.55 L'article 127.5 ne s'applique :

Impôt minimum inapplicable

- a) ni à une déclaration de revenu d'un particulier produite en vertu du para- 40

104(23)(d) or 128(2)(e) or subsection 150(4);

(b) a taxation year of an individual in respect of which the individual has made an election under section 119; or

(c) a return of income for the 1986 taxation year of an individual who dies in 1986.”

phe 70(2), de l’alinéa 104(23)d) ou 128(2)e) ou du paragraphe 150(4);

b) ni à une année d’imposition à l’égard de laquelle un particulier a fait le choix prévu à l’article 119;

c) ni à une déclaration de revenu pour l’année d’imposition 1986 d’un particulier qui décède en 1986.»

(2) Subsection (1) is applicable to taxation years commencing after 1985.

(2) Le paragraphe (1) s’applique aux 10 années d’imposition commençant après 1985.

52. (1) Subparagraph 129(1)(a)(i) of the said Act is repealed and the following substituted therefor:

52. (1) Le sous-alinéa 129(1)a)(i) de la même loi est abrogé et remplacé par ce qui suit :

“(i) $\frac{1}{3}$ of all taxable dividends paid by it in the year on shares of its capital stock, and”

«(i) le tiers du total des dividendes imposables versés par la corporation dans l’année sur des actions de son capital-actions,»

(2) All that portion of paragraph 129(3)(a) of the said Act preceding subparagraph (i) thereof is repealed and the following substituted therefor:

(2) Le passage de l’alinéa 129(3)a) de la même loi qui précède le sous-alinéa (i) est abrogé et remplacé par ce qui suit :

“(a) the aggregate of all amounts each of which is an amount in respect of a taxation year commencing after it last became a private corporation and ending not later than the end of the particular taxation year and, where the taxation year commences after November 12, 1981, throughout which the corporation was a Canadian-controlled private corporation, equal to, in respect of taxation years ending before 1978 or commencing after 1986, the least of, and in respect of taxation years ending after 1977 and commencing before 1987, 2/3 of the least of”

«a) le total des sommes dont chacune est une somme — à l’égard d’une année d’imposition commençant après la date à laquelle la corporation est devenue en dernier une corporation privée et se terminant au plus tard à la fin de l’année d’imposition donnée et, lorsque l’année d’imposition commence après le 12 novembre 1981, tout au long de laquelle la corporation était une corporation privée dont le contrôle est canadien — égale au moins élevé des montants suivants pour les années d’imposition se terminant avant 1978 ou commençant après 1986, ou aux deux tiers du moins élevé des montants suivants pour les années d’imposition se terminant après 1977 et commençant avant 1987 :»

(3) Subparagraph 129(3)(a)(iv) of the said Act is repealed and the following substituted therefor:

(3) Le sous-alinéa 129(3)a)(iv) de la même loi est abrogé et remplacé par ce qui suit :

“(iv) the amount of tax payable under this Part by the corporation for the year determined without reference to section 123.2,”

«(iv) le montant de l’impôt payable en vertu de la présente partie par la corporation pour l’année, calculé sans tenir compte de l’article 123.2,»

(4) Subsection 129(3) of the said Act is further amended by adding the word "and" at the end of paragraph (b) thereof and by adding thereto, immediately after paragraph (b) thereof, the following paragraph:

"(b.1) the amount, if any, of the corporation's addition at December 31, 1986 of refundable dividend tax on hand"

(5) Section 129 of the said Act is further amended by adding thereto, immediately after subsection (3.2) thereof, the following subsections:

"(3.3) In subsection (3), "addition at December 31, 1986 of refundable dividend tax on hand" of a corporation means the amount that is 1/2 of the amount, if any, by which

(a) the amount, if any, of the corporation's refundable dividend tax on hand at the end of its last taxation year commencing before 1987, determined without reference to paragraph (3)(b.1), exceeds the aggregate of

(b) the amount, if any, of the tax payable under Part IV by the corporation for its last taxation year commencing before 1987 in respect of taxable dividends received by it in that year and after 1986,

(c) 1/4 of the taxable dividends, if any, paid by the corporation before 1987 in its last taxation year commencing before 1987, and

(d) any amount added under paragraph 88(1)(e.5) in computing the corporation's refundable dividend tax on hand at the end of its last taxation year commencing before 1987 in respect of the refundable dividend tax on hand of a subsidiary (within the meaning assigned by subsection 88(1)) for its 1987 or 1988 taxation year.

(3.4) Where a corporation has received a taxable dividend after February 25, 1986 and before 1987 as part of a transaction effected after February 25, 1986 or series

(4) Le paragraphe 129(3) de la même loi est modifié par insertion, après l'alinéa b), de ce qui suit :

«b.1) le montant éventuellement ajouté au 31 décembre 1986 à l'impôt en main remboursable au titre de dividendes de la corporation,»

(5) L'article 129 de la même loi est modifié par insertion, après le paragraphe (3.2), de ce qui suit :

«(3.3) Au paragraphe (3), le montant ajouté au 31 décembre 1986 à l'impôt en main remboursable au titre de dividendes d'une corporation correspond à la moitié de l'excédent éventuel :

a) de l'éventuel impôt en main remboursable au titre de dividendes de la corporation à la fin de sa dernière année d'imposition commençant avant 1987, calculé sans tenir compte de l'alinéa 20 (3)b.1),

sur le total

b) de l'impôt dont la corporation est éventuellement redevable en vertu de la partie IV pour sa dernière année d'imposition commençant avant 1987 au titre des dividendes imposables qu'elle a reçus dans cette année et après 1986;

c) du quart des dividendes imposables éventuellement versés par la corporation avant 1987 dans sa dernière année d'imposition commençant avant 1987; et

d) du montant ajouté en vertu de l'alinéa 88(1)e.5) dans le calcul de l'impôt en main remboursable au titre de dividendes de la corporation à la fin de la dernière année d'imposition de celle-ci commençant avant 1987, au titre de l'impôt en main remboursable au titre de dividendes d'une filiale, au sens du 40 paragraphe 88(1), pour l'année d'imposition 1987 ou 1988 de cette dernière.

(3.4) L'impôt dont une corporation est redevable en vertu de la partie IV au titre d'un dividende imposable qu'elle a reçu après le 25 février 1986 et avant 1987 dans

Montant ajouté au 31 décembre 1986 à l'impôt en main remboursable au titre de dividendes

"Addition at December 31, 1986 of refundable dividend tax on hand" defined

Reduction under paragraph (3.3)(a)

Réduction de l'impôt en main remboursable au titre de dividendes

of transactions each of which was effected after that day and it may be reasonably considered that one of the main purposes thereof was to increase the corporation's refundable dividend tax on hand at the end of a taxation year by virtue of the application of subsection (3.3), the amount otherwise determined under paragraph (3.3)(a) in respect of the corporation shall be reduced by the tax payable under Part IV 10 by the corporation in respect of the dividend."

(6) Subsection (1) is applicable to the 1987 and subsequent taxation years, except that in its application to a taxation year 15 commencing before 1987 and ending after 1986, subparagraph 129(1)(a)(i) of the said Act, as enacted by subsection (1), shall be read as follows:

"(i) the aggregate of 1/4 of all tax-20
able dividends paid by it in the year
and before 1987 and 1/3 of all taxable
dividends paid by it in the year and
after 1986, on shares of its capital
stock, and" 25

(7) Subsection (2) is applicable to taxation years commencing after 1986.

(8) Subsections (3) and (4) and subsection 129(3.3) of the said Act, as enacted by subsection (5), are applicable to the 1987 and 30 subsequent taxation years.

(9) Subsection 129(3.4) of the said Act, as enacted by subsection (5), is applicable with respect to taxable dividends received after February 25, 1986.

53. (1) Subsection 130(1) of the said Act is repealed and the following substituted therefor:

Deduction from tax

"130. (1) A corporation that was, throughout a taxation year, an investment 40 corporation may deduct from the tax otherwise payable by it under this Part for the year an amount equal to 22% of the amount, if any, by which its taxable income for the year exceeds its taxed capi- 45 tal gains for the year."

le cadre d'une opération effectuée après le 25 février 1986 ou d'une série d'opérations dont chacune est effectuée après cette date, vient en réduction du montant visé à l'alinéa (3.3)a) s'il est raisonnable de con- 5 sidérer qu'un des principaux objets du versement de ce dividende à la corporation consistait à augmenter son impôt en main remboursable au titre de dividendes à la fin d'une année d'imposition par applica- 10 tion du paragraphe (3.3).»

(6) Le paragraphe (1) s'applique aux années d'imposition 1987 et suivantes. Toutefois, pour son application à une année d'imposition commençant avant 1987 et se termi- 15 nant après 1986, le sous-alinéa 129(1)a)(i) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :

«(i) le total du quart de l'ensemble des dividendes imposables versés par 20 la corporation dans l'année et avant 1987 et du tiers de l'ensemble des dividendes imposables versés par la corporation dans l'année et après 1986, sur des actions de son capital- 25 actions,»

(7) Le paragraphe (2) s'applique aux années d'imposition commençant après 1986.

(8) Les paragraphes (3) et (4) et le paragraphe 129(3.3) de la même loi, édicté par le 30 paragraphe (5), s'appliquent aux années d'imposition 1987 et suivantes.

(9) Le paragraphe 129(3.4) de la même loi, édicté par le paragraphe (5), s'applique aux dividendes imposables reçus après le 25 35 février 1986.

53. (1) Le paragraphe 130(1) de la même loi est abrogé et remplacé par ce qui suit :

Déduction de l'impôt

«130. (1) La corporation qui est, tout au long d'une année d'imposition, une corpo- 40 ration de placement peut déduire de son impôt payable par ailleurs en vertu de la présente partie pour l'année 22 % de l'ex-cédent éventuel de son revenu imposable pour l'année sur ses gains en capital im- 45 pôtés pour l'année.»

(2) Subsection (1) is applicable to the 1987 and subsequent taxation years, except that in the application of subsection 130(1) of the said Act, as enacted by subsection (1), to

(a) a taxation year of a corporation commencing before 1987 and ending after 1986, there shall be deducted from the amount determined under subsection 130(1) of the said Act in respect of the 10 corporation for the year that proportion of 1/12 of the excess determined under that subsection in respect of the corporation for the year that the number of days in the year that are before 1987 is of the number 15 of days in the year; and

(b) taxation years ending after 1986 and commencing before July, 1989, there shall be added to the amount otherwise determined under that subsection in respect of a 20 corporation for a taxation year the aggregate of

(i) that proportion of 3% of the excess determined under that subsection that the number of days in the year that are 25 before July, 1987 is of the number of days in the year,

(ii) the proportion of 2% of the excess determined under that subsection that the number of days in the year that are 30 after June, 1987 and before July, 1988 is of the number of days in the year, and

(iii) the proportion of 1% of the excess determined under that subsection that the number of days in the year that are 35 after June, 1988 and before July, 1989 is of the number of days in the year.

54. (1) All that portion of paragraph 131(5)(a) of the said Act preceding subparagraph (ii) thereof is repealed and the follow- 40 ing substituted therefor:

“(a) for the purposes of section 129, its refundable dividend tax on hand at the end of the year shall be deemed to be the amount, if any, by which the aggre- 45 gate of

(i) the aggregate of amounts each of which is an amount in respect of the

(2) Le paragraphe (1) s'applique aux années d'imposition 1987 et suivantes. Toutefois, pour l'application du paragraphe 130(1) de la même loi, édicté par le para- 5 graphe (1),

a) à une année d'imposition d'une corporation commençant avant 1987 et se terminant après 1986, doit être déduit du montant déterminé en vertu du paragraphe 130(1) de la même loi pour la corporation 10 pour l'année le produit de 1/12 de l'excédent déterminé en vertu de ce paragraphe pour la corporation pour l'année par le rapport entre le nombre de jours de l'année antérieurs au 1^{er} janvier 1987 et le nombre 15 total de jours de l'année;

b) aux années d'imposition se terminant après 1986 et commençant avant le 1^{er} juillet 1989, doit être ajouté au montant déterminé par ailleurs en vertu du para- 20 graphe 130(1) de la même loi pour une corporation pour une année d'imposition le total des produits suivants :

(i) le produit de 3 % de l'excédent déterminé en vertu de ce paragraphe par 25 le rapport entre le nombre de jours de l'année antérieurs au 1^{er} juillet 1987 et le nombre total de jours de l'année,

(ii) le produit de 2 % du même excédent par le rapport entre le nombre de jours 30 de l'année postérieurs au 30 juin 1987 et antérieurs au 1^{er} juillet 1988 et le nombre total de jours de l'année,

(iii) le produit de 1 % du même excédent par le rapport entre le nombre de 35 jours de l'année postérieurs au 30 juin 1988 et antérieurs au 1^{er} juillet 1989 et le nombre total de jours de l'année.

54. (1) Le passage de l'alinéa 131(5)a) de la même loi qui précède le sous-alinéa (ii) est 40 abrogé et remplacé par ce qui suit :

«a) pour l'application de l'article 129, son impôt en main remboursable au titre de dividendes à la fin de l'année est réputé être l'excédent éventuel du total 45

(i) du total des montants dont chacun représente un montant — à l'égard de l'année ou d'une année d'imposition

year or any preceding taxation year throughout which it is deemed by this subsection to have been a private corporation, equal to the tax under Part IV payable by it for that year, and 5
 (i.1) the amount, if any, of the corporation's addition at December 31, 1986 of refundable dividend tax on hand (within the meaning assigned by subsection 129(3.3)), 10
 exceeds the aggregate of"

(2) Clause 131(6)(d)(i)(C) of the said Act is repealed and the following substituted therefor:

"(C) the tax payable by it under 15
 this Part for the year determined
without reference to section 123.2,"

(3) Subsections (1) and (2) are applicable to the 1987 and subsequent taxation years.

55. (1) Subsection 136(1) of the said Act 20
 is repealed and the following substituted therefor:

"**136.** (1) Notwithstanding any other provision of this Act, a cooperative corporation that would, but for this section, be a 25
 private corporation shall be deemed not to be a private corporation except for the purposes of sections 15.1, 123.1, 125, 127, 127.1 and 157 and the definition "small business corporation" in subsection 248(1) 30
 as it applies for the purposes of paragraph 39(1)(c)."

(2) Subsection (1) is applicable after 1985.

56. (1) Subsection 137(7) of the said Act is repealed and the following substituted 35
 therefor:

"(7) Notwithstanding any other provision of this Act, a credit union that would, but for this section, be a private corporation shall be deemed not to be a private 40
 corporation except for the purposes of sections 123.1, 125, 127, 127.1 and 157 and the definition "small business corporation" in subsection 248(1) as it applies for the purposes of paragraph 39(1)(c)."
 45

antérieure tout au long de laquelle la corporation est réputée en vertu du présent paragraphe avoir été une corporation privée — égal à l'impôt dont elle est redevable en vertu de la partie 5
 IV pour cette année, et
 (i.1) du montant éventuellement ajouté au 31 décembre 1986 à l'impôt en main remboursable au titre de dividendes de la corporation, au sens du 10
 paragraphe 129(3.3),

sur le total des montants suivants :»

(2) La division 131(6)d)(i)(C) de la même loi est abrogée et remplacée par ce qui suit :

«(C) l'impôt payable par elle pour 15
 l'année en vertu de la présente
 partie calculé sans tenir compte de
l'article 123.2,»

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition 1987 et suivantes. 20

55. (1) Le paragraphe 136(1) de la même loi est abrogé et remplacé par ce qui suit :

«**136.** (1) Nonobstant les autres dispositions de la présente loi, une corporation coopérative qui serait, si ce n'était le pré- 25
 sent article, une corporation privée est réputée ne pas en être une, sauf pour l'application des articles 15.1, 123.1, 125, 127, 127.1 et 157 et sauf pour l'application à l'alinéa 39(1)c) de la définition de «cor- 30
 poration exploitant une petite entreprise», au paragraphe 248(1).»

(2) Le paragraphe (1) s'applique après 1985.

56. (1) Le paragraphe 137(7) de la même 35
 loi est abrogé et remplacé par ce qui suit :

«(7) Nonobstant les autres dispositions de la présente loi, une caisse de crédit qui serait, si ce n'était le présent article, une corporation privée est réputée ne pas en être une, sauf pour l'application des arti- 40
 cles 123.1, 125, 127, 127.1 et 157 et sauf pour l'application à l'alinéa 39(1)c) de la définition de «corporation exploitant une petite entreprise», au paragraphe 248(1).» 45

Corporation
coopérative
réputée ne pas
être une
corporation
privée

Caisse de crédit
réputée ne pas
être une
corporation
privée

Coop. not priv.
corp.

Credit union
not priv. corp.

(2) Subsection (1) is applicable after 1985.

57. (1) Paragraphs 146(2)(a) to (c.1) of the said Act are repealed and the following substituted therefor:

“(a) the plan does not provide for the payment of any benefit before maturity except

- (i) a refund of premiums, and
- (ii) a payment to the annuitant;

(b) the plan does not provide for the payment of any benefit after maturity except

- (i) by way of retirement income to the annuitant,
- (ii) to the annuitant in full or partial commutation of retirement income under the plan, and
- (iii) in respect of a commutation referred to in paragraph (c.2);

(b.1) the plan does not provide for a payment to the annuitant of a retirement income except by way of equal annual or more frequent periodic payments until such time as there is a payment in full or partial commutation of the retirement income and, where such commutation is partial, equal annual or more frequent periodic payments thereafter;

(b.2) the plan does not provide for periodic payments in a year under an annuity after the death of the first annuitant, the aggregate of which exceeds the aggregate of the payments under the annuity in a year before that death;

(b.3) the plan does not provide for the payment of any premium after maturity;

(b.4) the plan does not provide for maturity after the end of the year in which the annuitant attains 71 years of age;

(c) the plan provides that retirement income under the plan may not be assigned in whole or in part;

(c.1) the plan provides for the payment of all or part of

- (i) an excess amount for a year in respect of registered retirement sav-

(2) Le paragraphe (1) s'applique après 1985.

57. (1) Les alinéas 146(2)a) à c.1) de la même loi sont abrogés et remplacés par ce qui suit :

«a) le régime ne prévoit, avant son échéance, le versement d'aucune autre prestation qu'un versement au rentier ou un remboursement de primes;

b) il ne prévoit, après son échéance, le 10 versement d'aucune prestation, sauf :

- (i) au rentier sous forme de revenu de retraite,
- (ii) au rentier en conversion totale ou partielle du revenu de retraite prévu 15 au régime,
- (iii) dans le cadre d'une conversion visée à l'alinéa c.2);

b.1) il ne prévoit le versement au rentier d'un revenu de retraite que sous forme 20 de versements égaux à effectuer périodiquement à intervalles ne dépassant pas un an jusqu'à ce qu'il y ait un versement découlant d'une conversion totale ou partielle du revenu de retraite et, par la 25 suite, en cas de conversion partielle, sous forme de versements égaux à effectuer périodiquement à intervalles ne dépassant pas un an;

b.2) il ne prévoit pas de versements 30 d'une rente à effectuer périodiquement dans une année après le décès du premier rentier, dont le total dépasse le total de ceux à effectuer dans une année avant le décès;

b.3) il ne prévoit le versement d'aucune prime après échéance;

b.4) il ne prévoit pas d'échéance postérieure à la fin de l'année au cours de laquelle le rentier atteint 71 ans;

c) il prévoit qu'aucun revenu de retraite prévu par le régime ne peut être cédé en totalité ou en partie;

c.1) il prévoit le versement de tout ou partie

- (i) de l'excédent pour une année relativement à des régimes enregistrés d'épargne-retraite visé au paragraphe 204.2(1), ou

ings plans, within the meaning assigned by subsection 204.2(1), or (ii) the excess referred to in subsection (8.2);”

(2) Paragraph 146(3)(c) of the said Act is repealed.

(3) Paragraph 146(5)(b) of the said Act is repealed and the following substituted therefor:

“(b) in any other case, the lesser of 10 \$7,500 and 20% of his earned income for that taxation year”

(4) Subsections 146(8.2) to (8.6) of the said Act are repealed and the following substituted therefor:

“(8.2) Where the aggregate of all pre- premiums paid in a taxation year by a taxpayer to one or more registered retirement savings plans under which he or his spouse is the annuitant is not deductible by the taxpayer in computing his income for the year or the immediately preceding taxation year, and the taxpayer or his spouse can reasonably be regarded as having received, in the year in which a notice of assessment for the year was sent or in the following year, a payment in respect of the part that was not deductible from one or more such registered retirement savings plans, or from one or more registered retirement income funds to which any such plan was transferred, the payment may be deducted in computing the taxpayer’s income for the taxation year in which the payment is received and included in his income.

(8.3) Where at any time in a taxation year a particular amount in respect of a registered retirement savings plan to which a premium deductible under subsection (5.1) has been paid is required under subsection (8) or paragraph (12)(b) to be included in computing the income of the taxpayer’s spouse before the plan matures or as a payment in full or partial commutation of a retirement income under the plan, except where the taxpayer is living separate and apart from his spouse at that time by reason of the breakdown of their

(ii) de l’excédent visé au paragraphe (8.2);»

(2) L’alinéa 146(3)c) de la même loi est abrogé.

(3) L’alinéa 146(5)b) de la même loi est abrogé et remplacé par ce qui suit :

«b) dans les autres cas, du moindre de 7 500 \$ ou de 20 % de son revenu gagné pour cette année d’imposition,»

(4) Les paragraphes 146(8.2) à (8.6) de la même loi sont abrogés et remplacés par ce qui suit :

“(8.2) Dans le cas où le total des primes versées au cours d’une année d’imposition par un contribuable à un ou plusieurs régimes enregistrés d’épargne-retraite dont lui-même ou son conjoint sont rentiers n’est pas déductible par le contribuable dans le calcul de son revenu pour cette année ou pour l’année d’imposition précédente et où il est raisonnable de considérer que le contribuable ou son conjoint ont reçu sur cette partie non déductible un paiement — au cours de l’année où un avis de cotisation est envoyé pour l’année ou au cours de l’année suivante — d’un ou de plusieurs de ces régimes ou de fonds enregistrés de revenu de retraite auxquels ces régimes ont été transférés, ce paiement est déductible dans le calcul du revenu du contribuable pour l’année d’imposition au cours de laquelle il est reçu et ajouté dans le calcul de son revenu.

(8.3) Dans le cas où, à une date quelconque d’une année d’imposition, une somme donnée — retirée d’un régime enregistré d’épargne-retraite auquel une prime déductible en vertu du paragraphe (5.1) a été versée — doit être ajoutée en vertu du paragraphe (8) ou de l’alinéa (12)b) dans le calcul du revenu du conjoint d’un contribuable avant échéance du régime ou comme versement découlant de la conversion totale ou partielle d’un revenu de retraite prévu au régime, le total des primes versées par le contribuable au

Amount deductible

Montant déductible

Amount included in income

Montants à ajouter dans le revenu du rentier

marriage, all or any part of each premium paid by the taxpayer in the year or in one of the two immediately preceding taxation years that is deductible under subsection (5.1) in computing his income for a year shall be included at that time in computing his income for the year, except to the extent that the aggregate of those premiums or parts thereof exceeds the particular amount.

Interpretation

(8.4) Where a registered retirement savings plan receives a payment out of or a transfer from

(a) a plan described in subsection (8.3), or

(b) a registered retirement income fund which was a fund described in subsection 146.3(5.1)

the plan shall be deemed to be a registered retirement savings plan to which a premium deductible under subsection (5.1) has been paid.

Ordering

(8.5) Where a taxpayer has paid more than one premium described in subsection (8.3), such a premium or part thereof paid by him at any time shall be deemed to have been included in computing his income by virtue of subsection (8.3) before premiums or parts thereof paid by him after that time.

Spouse's income

(8.6) Where, in respect of an amount received by a taxpayer's spouse, all or part of a premium has by virtue of subsection (8.3) or 146.3(5.1) been included at any time in computing the taxpayer's income for a taxation year,

(a) the premium or part thereof, as the case may be, shall, for the purposes of subsections (8.3) and 146.3(5.1) after that time, be deemed not to have been a premium deductible under subsection (5.1); and

(b) an amount equal to the premium or part thereof, as the case may be, may be deducted in computing the income of the spouse for the year."

(5) Subsection 146(8.7) of the said Act is amended by striking out the word "and" at

cours de l'année ou de l'une des deux années d'imposition précédentes, dans la mesure où elles sont déductibles en vertu du paragraphe (5.1) dans le calcul du revenu du contribuable pour une année, doit être ajouté à cette date dans le calcul du revenu de celui-ci pour l'année, jusqu'à concurrence de la somme donnée, sauf si le contribuable et son conjoint vivaient séparément à cette date pour cause d'échec du mariage.

(8.4) Un régime enregistré d'épargne-retraite auquel un montant est versé ou transféré d'un régime visé au paragraphe (8.3) ou d'un fonds enregistré de revenu de retraite visé au paragraphe 146.3(5.1) est réputé être un régime enregistré d'épargne-retraite auquel une prime déductible en vertu du paragraphe (5.1) a été versée.

Transfert

(8.5) Dans le cas où un contribuable a versé plus d'une prime visée au paragraphe (8.3), tout ou partie de ces primes sont réputées ajoutées en vertu de ce paragraphe dans le calcul de son revenu dans l'ordre chronologique des dates où il les a versées.

Ordre des primes versées

(8.6) Dans le cas où, à cause d'une somme que reçoit le conjoint d'un contribuable, tout ou partie d'une prime est ajoutée à une date donnée en vertu du paragraphe (8.3) ou 146.3(5.1) dans le calcul du revenu du contribuable pour une année d'imposition, cette prime ou partie de prime, selon le cas :

Dédution dans le revenu du conjoint

a) est réputée, pour l'application du paragraphe (8.3) ou 146.3(5.1) après cette date, ne pas être déductible en vertu du paragraphe (5.1); et

b) est déductible dans le calcul du revenu du conjoint pour l'année."

(5) Le paragraphe 146(8.7) de la même loi est modifié par suppression du mot «et» à la 45

the end of paragraph (b) thereof, by adding the word "and" at the end of paragraph (c) thereof and by adding thereto the following paragraph:

"(d) to any payment that is received in full or partial commutation of a registered retirement income fund or a registered retirement savings plan and in respect of which a deduction was made under paragraph 60(1) if, where the deduction was in respect of the acquisition of an annuity, the terms thereof provide that it cannot be commuted, and it is not commuted, in whole or in part within 3 years after the acquisition thereof."

(6) Subsection 146(12) of the said Act is repealed and the following substituted therefor:

"(12) Where, on any day after a retirement savings plan has been accepted by the Minister for registration for the purposes of this Act, the plan is revised or amended or a new plan is substituted therefor, and the plan as revised or amended or the new plan substituted therefor, as the case may be, (hereinafter in this subsection referred to as the "amended plan") does not comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act, the following rules apply:

(a) the amended plan shall be deemed, for the purposes of this Act, not to be a registered retirement savings plan; and

(b) the taxpayer who was the annuitant under the plan before it became an amended plan shall, in computing his income for the taxation year that includes that day, include as income received at that time an amount equal to the fair market value of all the property of the plan immediately before that time."

(7) Subsections 146(16) to (19) of the said Act are repealed and the following substituted therefor:

"(16) Notwithstanding anything in this section, a registered retirement savings

fin de l'alinéa b), par adjonction de ce mot à la fin de l'alinéa c) et par adjonction de ce qui suit :

«(d) à un versement reçu qui découle de la conversion totale ou partielle d'un fonds enregistré de revenu de retraite ou d'un régime enregistré d'épargne-retraite et pour lequel une déduction est faite en vertu de l'alinéa 60(1), si, lorsque la déduction concerne l'achat d'une rente, il est prévu de ne pas pouvoir convertir celle-ci en totalité ou en partie dans les trois ans suivant son achat et elle n'est pas ainsi convertie.»

(6) Le paragraphe 146(12) de la même loi est abrogé et remplacé par ce qui suit :

«(12) Dans le cas où, à une date postérieure à l'acceptation par le ministre d'enregistrer un régime d'épargne-retraite pour l'application de la présente loi, le régime est révisé ou modifié ou un nouveau régime lui est substitué — l'un et l'autre étant appelés «régime modifié» au présent paragraphe — et où le régime modifié ne répond pas aux conditions prévues au présent article pour que le ministre accepte de l'enregistrer pour l'application de la présente loi, les règles suivantes s'appliquent :

a) le régime modifié est réputé, pour l'application de la présente loi, ne pas être un régime enregistré d'épargne-retraite;

b) le contribuable qui était rentier du régime avant que celui-ci soit devenu un régime modifié doit ajouter comme revenu reçu à cette date une somme égale à la juste valeur marchande de tous les biens du régime immédiatement avant cette date, dans le calcul de son revenu pour l'année d'imposition qui comprend cette date.»

(7) Les paragraphes 146(16) à (19) de la même loi sont abrogés et remplacés par ce qui suit :

«(16) Nonobstant les autres dispositions du présent article, un régime enregistré

Modification du régime après enregistrement

Transfert de biens

Change in plan after registration

Transfer of funds

plan may at any time be revised or amended to provide for the payment or transfer, on behalf of the annuitant under the plan (in this subsection referred to as the "transferor"), of any property thereunder 5 by the issuer thereof

(a) to any issuer of another registered retirement savings plan or carrier of a registered retirement income fund under which 10

- (i) the transferor is the annuitant, or
- (ii) the spouse or former spouse of the transferor, from whom he is living apart, is the annuitant and the payment or transfer is made pursuant to 15 a decree, order or judgment of a competent tribunal, or a written separation agreement, relating to a division of property between the transferor and his spouse or former spouse in 20 settlement of rights arising out of their marriage, on or after the breakdown of the marriage, or

(b) as a contribution to or under a registered pension fund or plan, 25 and upon the payment or transfer of such property before the year in which the transferor attains 72 years of age

(c) the amount so paid or transferred on behalf of the transferor shall not by 30 reason only of such payment or transfer be included by virtue of subsection (8) in computing the income of the transferor or his spouse or former spouse, and

(d) no deduction may be made under 35 subsection (5), (5.1) or (8.2) or section 8 or 60, in respect of the amount so paid or transferred, in computing the income of any taxpayer.

(17) For the purposes of this section, 40 where before a particular time a taxpayer has received a payment described in paragraph (2)(c.1), the amounts paid by him to registered retirement savings plans under which he or his spouse is the annuitant in 45 the year in respect of which that payment is made to him are deemed to be the amounts so paid by him to such plans in that year less the aggregate of all such

d'épargne-retraite peut, à une date quelconque, être révisé ou modifié de façon à prévoir le versement ou le transfert de biens accumulés dans ce régime, par 5 l'émetteur pour le compte du rentier,

a) à tout émetteur d'un autre régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite,

- (i) dont le rentier est rentier, ou
- (ii) dont le conjoint ou ancien conjoint du rentier, dont il vit séparé, est rentier, si le versement ou le transfert est effectué conformément à quelque arrêt, ordonnance ou jugement d'un tribunal compétent ou à un accord 15 écrit de séparation, visant à partager des biens entre le rentier et son conjoint ou ancien conjoint, en règlement, après échec du mariage, des droits découlant de celui-ci, 20

b) à titre de cotisation à quelque caisse ou régime enregistré de pensions ou en vertu d'une telle caisse ou d'un tel régime;

et sur versement ou transfert des biens 25 avant l'année au cours de laquelle le rentier atteint 72 ans,

c) la somme ainsi versée ou transférée pour le compte du rentier ne doit pas, de ce seul fait, être ajoutée en vertu du 30 paragraphe (8) dans le calcul du revenu du rentier ou de son conjoint ou ancien conjoint; et

d) dans le calcul du revenu de tout contribuable, aucune déduction ne peut être 35 faite, en vertu du paragraphe (5), (5.1) ou (8.2) ou de l'article 8 ou 60, au titre de la somme ainsi versée ou transférée.

(17) Pour l'application du présent article, lorsque, avant une date donnée, un 40 contribuable a reçu un versement visé à l'alinéa (2)c.1), le total des montants qu'il a versés à des régimes enregistrés d'épargne-retraite dont lui-même ou son conjoint est rentier dans l'année pour laquelle le 45 versement lui a été fait est réputé être diminué du total des versements visés à cet alinéa que le contribuable a reçus pour l'année avant la date donnée.»

Diminution
réputée

payments received by him in respect of that year before the particular time.”

(8) Subsections (1) to (7) are applicable to the 1986 and subsequent taxation years, except that paragraph 146(12)(b) of the said Act, as enacted by subsection (6), is applicable after May 25, 1976 and in its application in respect of plans to which paragraph 146(12)(a) of the said Act had application on or before that date, paragraph 146(12)(b) of the said Act shall be read as follows:

“(b) there shall be included in computing the income of a taxpayer for a taxation year all amounts received by him in the year that, by virtue of subsection (8) 15 or (9), would have been so included if the amended plan had been a registered retirement savings plan at the time he received those amounts and no deduction shall be made under paragraph 20 60(a) in respect of those amounts in computing his income for that year.”

58. (1) Subsection 146.3(1) of the said Act is amended by adding thereto, immediately after paragraph (b) thereof, the following paragraph:

“minimum amount”
«minimum»

“(b.1) “minimum amount” under a retirement income fund for the year in which the fund was entered into is nil and for each subsequent year means the 30 quotient obtained when the fair market value of the property held in connection with the fund at the beginning of the year is divided by the number that is the difference between 90 and 35
(i) the number that is, or would be, the age in whole years of the annuitant at the beginning of the year, or
(ii) where the annuitant so elects before any payment has been made by 40 the carrier of the fund, the number that is or would be the age in whole years of the annuitant’s spouse at the beginning of the year;”

(2) Paragraph 146.3(1)(c) of the said Act 45 is repealed and the following substituted therefor:

(8) Les paragraphes (1) à (7) s’appliquent aux années d’imposition 1986 et suivantes. 5 Toutefois, l’alinéa 146(12)b) de la même loi, édicté par le paragraphe (6), s’applique après 5 le 25 mai 1976 mais pour son application aux régimes auxquels l’alinéa 146(12)a) de la même loi s’appliquait jusqu’à cette date, 10 l’alinéa 146(12)b) se lit ainsi :

«b) dans le calcul du revenu d’un contribuable pour une année d’imposition, il faut inclure toutes les sommes reçues par lui au cours de l’année qui, en vertu des paragraphes (8) ou (9), auraient été ainsi incluses si le régime modifié avait 15 été un régime enregistré d’épargne-retraite à la date où il a reçu ces sommes, et lors du calcul de son revenu pour l’année, aucune déduction ne doit être faite, en vertu de l’alinéa 60a), 20 relativement à ces sommes.»

58. (1) Le paragraphe 146.3(1) de la même loi est modifié par insertion, après l’alinéa b), de ce qui suit :

«b.1) «minimum» s’entend du montant 25 minimal à retirer d’un fonds enregistré de revenu de retraite pour chaque année subséquente à l’année où l’entente concernant le fonds est faite, égal au quotient obtenu en divisant la juste valeur 30 marchande des biens détenus dans le cadre du fonds au début de l’année par la différence entre 90 et :
(i) l’âge qu’a ou aurait le rentier, en années accomplies, au début de l’année, ou
(ii) si le rentier en fait le choix avant que l’émetteur du fonds fasse un versement, l’âge qu’a ou aurait le conjoint du rentier, en années accomplies, 40 au début de l’année;
aucun montant minimal n’est à retirer pour l’année où l’entente est faite;»

«minimum»
“minimum amount”

(2) L’alinéa 146.3(1)c) de la même loi est abrogé et remplacé par ce qui suit : 45

"property held"
«biens détenus»

"(c) "property held" in connection with a retirement income fund means property held by the carrier of the fund, whether held by the carrier as trustee or beneficial owner thereof, the value of which, or the income or loss from which, is relevant in determining the amount for a year payable to the annuitant under the fund;"

«c) «biens détenus» s'entend, dans le cadre d'un fonds de revenu de retraite, des biens que détient, à titre de fiduciaire ou de propriétaire, l'émetteur du fonds et dont la valeur, le revenu ou la perte sert au calcul des versements à effectuer au rentier sur le fonds pour une année;»

«biens détenus»
"property held"

(3) Paragraph 146.3(1)(f) of the said Act is repealed and the following substituted therefor:

(3) L'alinéa 146.3(1)f) de la même loi est abrogé et remplacé par ce qui suit :

"retirement income fund"
«fonds de revenu de retraite»

"(f) "retirement income fund" means an arrangement between a carrier and an annuitant under which, in consideration for the transfer to the carrier of property (including money), the carrier undertakes to pay to the annuitant and, where the annuitant so elects, to his spouse after his death,

(i) in each year, commencing not later than the first calendar year after the year in which the arrangement is entered into, one or more amounts the aggregate of which is not less than the minimum amount under the arrangement for a year, but the amount of any such payment shall not exceed the value of the property held in connection with the arrangement immediately before the time of the payment, and

(ii) at the end of the year in which the last payment under the arrangement is, in accordance with the terms and conditions of the arrangement, required to be made, an amount equal to the value of the property, if any, held in connection with the arrangement at that time."

«f) «fonds de revenu de retraite» s'entend d'un fonds visé par une entente entre un émetteur et un rentier par laquelle l'émetteur, contre les biens — y compris de l'argent — qui lui sont transférés, s'engage à verser au rentier et, si le rentier en fait le choix, à son conjoint après son décès,

(i) d'une part, chaque année, à compter au plus tard de la première année civile suivant l'année de l'entente, un ou plusieurs montants dont le total est au moins égal au minimum à retirer pour une année, chaque versement ne pouvant toutefois dépasser la valeur des biens détenus dans le cadre du fonds immédiatement avant la date du versement,

(ii) d'autre part, à la fin de l'année dans laquelle le dernier versement prévu par l'entente doit être fait, conformément aux conditions de celle-ci, un montant égal à la valeur des biens restants détenus alors dans le cadre du fonds.»

«fonds de
revenu de
retraite»
"retirement
income fund"

(4) Subsection 146.3(2) of the said Act is repealed and the following substituted therefor:

(4) Le paragraphe 146.3(2) de la même loi est abrogé et remplacé par ce qui suit :

Acceptance of
fund for
registration

"(2) The Minister shall not accept for registration for the purposes of this Act any retirement income fund of an individual unless, in his opinion, the following conditions are complied with:

(a) the fund provides that the carrier shall make only those payments

«(2) Le ministre ne peut accepter d'enregistrer un fonds de revenu de retraite d'un particulier pour l'application de la 40 présente loi que s'il est d'avis que les conditions suivantes sont remplies :

a) l'entente concernant le fonds prévoit que l'émetteur ne peut faire d'autres

Enregistrement

described in paragraphs (d), (e), (1)(f), and (14)(b);

(b) the fund provides that payments thereunder may not be assigned in whole or in part;

(c) where the carrier is a person referred to as a depository in section 146, the fund provides that

(i) the carrier has no right of offset as regards the property held in connection with the fund in respect of any debt or obligation owing to the carrier, and

(ii) the property held in connection with the fund cannot be pledged, assigned or in any way alienated as security for a loan or for any purpose other than that of the making by the carrier to the annuitant those payments described in paragraph (a);

(d) the fund provides that, except where the annuitant's spouse becomes the annuitant under the fund pursuant to the terms of the fund or the provisions of the will of the deceased annuitant, the carrier shall, as a consequence of the death of the annuitant, distribute the property held in connection with the fund at the time of his death or an amount equal to the value of such property at that time;

(e) the fund provides that, at the direction of the annuitant, the carrier shall, in prescribed form and manner, transfer all or part of the property held in connection with the fund, or an amount equal to its value at the time of such direction, together with all information necessary for the continuance of the fund, to any person who has agreed to be a carrier of another registered retirement income fund of the annuitant;

(f) the fund provides that the carrier shall not accept property as consideration thereunder other than property transferred from

(i) a registered retirement savings plan under which the individual is the annuitant,

versements que ceux que prévoient les alinéas d), e), (1)f) et (14)b);

b) elle prévoit qu'aucun versement dans le cadre du fonds ne peut être cédé, en totalité ou en partie;

c) elle prévoit, dans le cas où l'émetteur est un dépositaire visé à l'article 146,

(i) d'une part, que l'émetteur n'a aucun droit d'éteindre une dette ou obligation envers lui par compensation à l'aide des biens détenus dans le cadre du fonds,

(ii) d'autre part, que les biens détenus dans le cadre du fonds ne peuvent être nantis, cédés ou aliénés de quelque façon, en garantie d'un prêt ou dans un autre but que celui de permettre à l'émetteur de faire au rentier les versements visés à l'alinéa a);

d) elle prévoit que, à la suite du décès du rentier, l'émetteur doit distribuer les biens détenus dans le cadre du fonds lors du décès ou un montant égal à la valeur de ceux-ci à ce moment, sauf si le conjoint du rentier devient rentier du fonds conformément à l'entente ou au testament du rentier décédé;

e) elle prévoit que, sur instructions du rentier, l'émetteur doit transférer, selon le formulaire réglementaire et de la manière réglementaire, à la personne qui s'est engagée à être émetteur d'un autre fonds enregistré de revenu de retraite dont le rentier devient rentier, tout ou partie des biens détenus dans le cadre du fonds ou un montant égal à la valeur de ceux-ci à la date où les instructions sont données, avec tous les renseignements nécessaires à la continuation du fonds;

f) elle prévoit que l'émetteur ne peut accepter, comme contrepartie, d'autres biens que ceux qui sont transférés :

(i) d'un régime enregistré d'épargne-retraite dont le particulier est rentier,

(ii) d'un autre fonds enregistré de revenu de retraite dont le particulier est rentier,

(ii) another registered retirement income fund under which the individual is the annuitant,

(iii) the individual to the extent only that the amount of the consideration was an amount described in subparagraph 60(l)(v), or

(iv) a registered retirement income fund or registered retirement savings plan of his spouse or former spouse pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement, relating to a division of property between the annuitant and his spouse or former spouse in settlement of rights arising out of their marriage, on or after the breakdown of their marriage;

(g) the fund requires that no benefit or loan, other than

(i) a benefit the amount of which is required to be included in computing the annuitant's income,

(ii) an amount referred to in paragraph (5)(a) or (b), or

(iii) the benefit derived from the provision of administrative or investment services in respect of the fund,

that is conditional in any way on the existence of the fund may be extended to the annuitant or to a person with whom he was not dealing at arm's length; and

(h) the fund in all other respects complies with regulations of the Governor in Council made on the recommendation of the Minister of Finance."

(5) Section 146.3 of the said Act is further amended by adding thereto, immediately after subsection (5) thereof, the following subsections:

"(5.1) Where at any time in a taxation year a particular amount in respect of a registered retirement income fund, that received property from a registered retirement savings plan to which a premium deductible under subsection 146(5.1) has been paid, is required to be included in the income of the taxpayer's spouse, except where the taxpayer is living separate and

(iii) du particulier, dans la mesure où la contrepartie est une somme visée au sous-alinéa 60(l)(v), ou

(iv) d'un régime enregistré d'épargne-retraite ou d'un fonds enregistré de revenu de retraite dont le conjoint ou ancien conjoint du particulier est rentier, conformément à quelque décret, ordonnance ou jugement d'un tribunal compétent ou à un accord écrit de séparation, visant à partager des biens entre le rentier et son conjoint ou ancien conjoint, en règlement, après échec du mariage, des droits découlant de celui-ci;

g) elle prévoit qu'aucun avantage ou prêt subordonné à l'existence du fonds ne peut être accordé au rentier ou à une personne avec qui celui-ci a un lien de dépendance, à l'exception :

(i) d'un avantage dont la valeur doit être ajoutée au calcul du revenu du rentier,

(ii) d'un montant visé à l'alinéa (5)a) ou b),

(iii) de l'avantage provenant de la fourniture de services de gestion ou de placement concernant le fonds;

h) le fonds doit respecter par ailleurs les dispositions réglementaires prises par le gouverneur général en conseil sur recommandation du ministre des Finances."

(5) L'article 146.3 de la même loi est modifié par insertion, après le paragraphe (5), de ce qui suit :

"(5.1) Dans le cas où, à une date quelconque d'une année d'imposition, un montant donné — retiré d'un fonds enregistré de revenu de retraite qui a reçu des biens d'un régime enregistré d'épargne-retraite auquel une prime déductible en vertu du paragraphe 146(5.1) a été versée — doit être ajouté au revenu du conjoint d'un contribuable, le total des primes versées

Montant ajouté au revenu

Amount included in income

apart from his spouse at that time by reason of the breakdown of their marriage, all premiums paid by the taxpayer in the year or in one of the two immediately preceding taxation years to the extent that they were deductible under subsection 146(5.1) in computing his income for a year shall be included at that time in computing the taxpayer's income for the year to the extent that the aggregate of the particular amounts paid in the year exceeds the minimum amount under the fund for the year.

Interpretation

(5.2) A registered retirement income fund to which a payment or transfer has been made from a registered retirement income fund described in subsection (5.1) shall be deemed to be a fund described in subsection (5.1).

Ordering

(5.3) Where a taxpayer has paid more than one premium described in subsection (5.1), such a premium or part thereof paid by him at any time shall be deemed to have been included in computing his income by virtue of subsection (5.1) before premiums or parts thereof paid by him after that time.

Spouse's income

(5.4) Where, in respect of an amount received by a taxpayer's spouse, all or part of a premium has, by virtue of subsection (5.1) or 146(8.3), been included at any time in computing the taxpayer's income for a taxation year,

(a) the premium or part thereof, as the case may be, shall, for the purposes of subsection (5.1) or 146(8.3) after that time, be deemed not to have been a premium deductible by him under subsection 146(5.1), and

(b) an amount equal to the premium or part thereof, as the case may be, may be deducted in computing the income of the spouse for the year.

Application of subsec. (5.1)

(5.5) Subsection (5.1) does not apply (a) in respect of a taxpayer at any time during the year in which the taxpayer dies;

par le contribuable au cours de l'année ou de l'une des deux années d'imposition précédentes, dans la mesure où elles sont déductibles en vertu du paragraphe 146(5.1) dans le calcul du revenu du contribuable pour une année, doit être ajouté à cette date dans le calcul du revenu du contribuable pour l'année, jusqu'à concurrence de l'excédent du total des montants donnés retirés dans l'année sur le minimum à retirer du fonds pour l'année, sauf si le contribuable et son conjoint vivaient séparément à cette date pour cause d'échec du mariage.

(5.2) Un fonds enregistré de revenu de retraite auquel un versement ou un transfert est fait d'un fonds enregistré de revenu de un retraite visé au paragraphe (5.1) est réputé être lui-même un fonds visé à ce paragraphe.

(5.3) Dans le cas où un contribuable verse plus d'une prime visée au paragraphe (5.1), tout ou partie de ces primes sont réputées ajoutées en vertu de ce paragraphe dans le calcul de son revenu dans l'ordre chronologique des dates où il les a versées.

(5.4) Dans le cas où, à cause d'un montant que reçoit le conjoint d'un contribuable, tout ou partie d'une prime est ajoutée à une date quelconque en vertu du paragraphe (5.1) ou 146(8.3) dans le calcul du revenu du contribuable pour une année d'imposition, cette prime ou partie de prime, selon le cas :

a) est réputée, pour l'application du paragraphe (5.1) ou 146(8.3) après cette date, ne pas être déductible par le contribuable en vertu du paragraphe 146(5.1); et

b) est déductible dans le calcul du revenu du conjoint pour l'année.

(5.5) Le paragraphe (5.1) ne s'applique pas :

a) à un contribuable pour l'année au cours de laquelle il décède;

Fonds réputé

Ordre des primes versées

Déduction dans le revenu du conjoint

Paragraphe (5.1) inapplicable

(b) in respect of a taxpayer where either the taxpayer or the annuitant is a non-resident at the particular time referred to in subsection (5.1); or

(c) to any payment that is received in full or partial commutation of a registered retirement savings plan or a registered retirement income fund and in respect of which a deduction was made under paragraph 60(1) if, where the deduction was in respect of the acquisition of an annuity, the terms thereof provide that it cannot be commuted, and it is not commuted, in whole or in part within 3 years after the acquisition thereof.”

(6) Subsections 146.3(11) to (14) of the said Act are repealed and the following substituted therefor:

“(11) Where, on any day after a retirement income fund has been accepted by the Minister for registration for the purposes of this Act, the fund is revised or amended or a new fund is substituted therefor, and the fund as revised or amended or the new fund substituted therefor, as the case may be, (hereinafter in this subsection referred to as the “amended fund”) does not comply with the requirements of this section for its acceptance by the Minister for registration for the purposes of this Act, the following rules apply:

(a) the amended fund shall be deemed, for the purposes of this Act, not to be a registered retirement income fund; and

(b) the taxpayer who was the annuitant under the fund before it became an amended fund shall, in computing his income for the taxation year that includes that day, include as income received out of the fund at that time an amount equal to the fair market value of all the property held in connection with the fund immediately before that time.

(12) For the purposes of subsection (11), an arrangement under which a right or obligation under a retirement income fund is released or extinguished either wholly or in part and either in exchange or

b) à un contribuable au cas où celui-ci ou le rentier ne réside pas au Canada à la date visée au paragraphe (5.1);

c) à un versement reçu qui découle d’une conversion totale ou partielle d’un régime enregistré d’épargne-retraite ou d’un fonds enregistré de revenu de retraite et pour lequel une déduction est faite en vertu de l’alinéa 60(1), si, lorsque la déduction concerne l’achat d’une rente, il est prévu de ne pas pouvoir convertir celle-ci en totalité ou en partie dans les trois ans suivant son achat et elle n’est pas ainsi convertie.»

(6) Les paragraphes 146.3(11) à (14) de la même loi sont abrogés et remplacés par ce qui suit :

«(11) Dans le cas où, à une date postérieure à l’acceptation par le ministre d’enregistrer un fonds de revenu de retraite pour l’application de la présente loi, le fonds est révisé ou modifié ou un nouveau fonds lui est substitué — l’un et l’autre étant appelés «fonds modifié» au présent paragraphe — et où le fonds modifié ne répond pas aux conditions prévues au présent article pour que le ministre accepte de l’enregistrer pour l’application de la présente loi, les règles suivantes s’appliquent :

a) le fonds modifié est réputé, pour l’application de la présente loi, ne pas être un fonds enregistré de revenu de retraite;

b) le contribuable qui était rentier du fonds avant que celui-ci soit devenu un fonds modifié doit ajouter comme revenu retiré du fonds à cette date une somme égale à la juste valeur marchande de tous les biens détenus dans le cadre du fonds immédiatement avant cette date, dans le calcul de son revenu pour l’année d’imposition qui comprend cette date.

(12) Pour l’application du paragraphe (11), toute entente qui prévoit, en totalité ou en partie, la remise ou l’extinction de quelque droit ou obligation découlant d’un fonds de revenu de retraite en échange ou

Modification du
fonds après
enregistrement

Idem

Change in fund
after registra-
tion

Idem

substitution for any right or obligation, or otherwise (other than an arrangement the sole object and legal effect of which is to revise or amend the fund) or under which payment of any amount by way of loan or otherwise is made on the security of a right under a retirement income fund, shall be deemed to be a new fund substituted for the retirement income fund.

(13) Where at any time a benefit or loan is extended or continues to be extended as a consequence of the existence of a registered retirement income fund and that benefit or loan would be prohibited if the fund met the requirement for registration contained in paragraph (2)(g), for the purposes of subsection (11), the fund shall be deemed to have been revised or amended at that time so that it fails to meet the requirement for registration contained in paragraph (2)(g).

(14) Notwithstanding anything in this section, an amount

(a) transferred as described in paragraph (2)(e), or

(b) transferred from a registered retirement income fund of an annuitant to a registered retirement income fund or registered retirement savings plan of his spouse or former spouse pursuant to a decree, order or judgment of a competent tribunal or a written separation agreement, relating to a division of property between the annuitant and his spouse or former spouse in settlement of rights arising out of their marriage, on or after the breakdown of their marriage,

shall be deemed not to be an amount received by the annuitant out of or under a registered retirement income fund."

(7) Subsections (1) to (5) are applicable

(a) for the 1986 and subsequent taxation years with respect to registered retirement income funds entered into after February, 1986; and

(b) with respect to each registered retirement income fund that was entered into

remplacement d'un autre droit ou d'une autre obligation ou autrement — à l'exclusion d'une entente dont les seuls objet et effets juridiques consistent à réviser ou modifier le fonds — ou toute entente qui prévoit le versement d'une somme, par le biais d'un prêt ou autre, en garantie d'un droit découlant d'un fonds de revenu de retraite est réputée substituer un nouveau fonds au fonds initial.

(13) Dans le cas où, à une date quelconque, un avantage ou un prêt est accordé ou continue de l'être à cause de l'existence d'un fonds enregistré de revenu de retraite — avantage ou prêt qui ne saurait être accordé aux fins d'enregistrement du fonds, étant donné la condition posée par l'alinéa (2)g) — le fonds est réputé, pour l'application du paragraphe (11), être révisé ou modifié à cette date et ne pas répondre ainsi à la condition posée par l'alinéa (2)g).

(14) Nonobstant les autres dispositions du présent article, est réputé ne pas être un montant retiré d'un fonds enregistré de revenu de retraite par un rentier tout montant

a) transféré conformément à l'alinéa (2)e); ou

b) transféré d'un fonds enregistré de revenu de retraite du rentier à un fonds enregistré de revenu de retraite ou régime enregistré d'épargne-retraite du conjoint ou ancien conjoint du rentier, conformément à quelque décret, ordonnance ou jugement d'un tribunal compétent ou à un accord écrit de séparation, visant à partager des biens entre le rentier et son conjoint ou ancien conjoint, en règlement, après échec du mariage, des droits découlant de celui-ci.

(7) Les paragraphes (1) à (5) s'appliquent :

a) aux ententes concernant des fonds de revenu de retraite faites après février 1986, pour les années d'imposition 1986 et suivantes; et

before March, 1986 and that is revised or amended after February, 1986 for the taxation year in which it is revised or amended and subsequent taxation years.

59. (1) All that portion of subparagraph 149.1(1)(e)(iv) of the said Act preceding clause (B) thereof is repealed and the following substituted therefor:

“(iv) the proportion that the number of days in the year is of 365 of 4 1/2% 10
of the amount, if any, by which
(A) the prescribed amount for the year in respect of property (other than a prescribed property) or a portion thereof owned by the foun- 15
dation at any time in the immediately preceding 24 months that was not used directly in charitable activities or administration exceeds the aggregate of” 20

(2) All that portion of paragraph 149.1(1)(e) of the said Act following subparagraph (v) thereof is repealed.

(3) Section 149.1 of the said Act is amended by adding thereto, immediately 25
after subsection (1.1) thereof, the following subsection:

“(1.2) For the purposes of clause 149.1(1)(e)(iv)(A), the Minister may
(a) authorize a change in the number of 30
periods chosen by a charitable foundation in determining the prescribed amount; and
(b) accept any method for the determination of the fair market value of prop- 35
erty or a portion thereof that may be required in determining the prescribed amount.”

(4) Subsections (1) to (3) are applicable with respect to taxation years commencing 40
after 1983.

60. (1) Subsections 152(1.1) to (1.3) of the said Act are repealed and the following substituted therefor:

b) aux ententes faites avant mars 1986 concernant des fonds de revenu de retraite révisés ou modifiés après février 1986, pour l'année d'imposition au cours de laquelle il y a eu révision ou modification 5
et pour les années d'imposition suivantes.

59. (1) Le passage du sous-alinéa 149.1(1)e)(iv) de la même loi qui précède la division (B) est abrogé et remplacé par ce qui suit :

«(iv) le produit obtenu en multipliant, par le rapport entre le nombre de jours de l'année et 365, 4 1/2 % de l'excédent éventuel

(A) du montant prescrit pour l'an- 15
née en ce qui concerne les biens ou la partie des biens appartenant à la fondation au cours des 24 mois précédents — à l'exclusion des biens visés par règlement — qui n'étaient 20
pas directement affectés à des activités de bienfaisance ou à des fins administratives
sur le total des éléments suivants :»

(2) Le passage de l'alinéa 149.1(1)e) de la 25
même loi qui suit le sous-alinéa (v) est abrogé.

(3) L'article 149.1 de la même loi est modifié, par insertion après le paragraphe (1.1), de ce qui suit : 30

«(1.2) Pour l'application de la division 149.1(1)e)(iv)(A), le ministre peut :

a) autoriser une modification du nombre de périodes choisi par une fondation de charité en vue de déterminer 35
le montant prescrit;
b) accepter toute méthode de fixation de la juste valeur marchande des biens ou de la partie des biens visés nécessaire, le cas échéant, pour déterminer le mon- 40
tant prescrit.»

(4) Les paragraphes (1) à (3) s'appliquent aux années d'imposition commençant après 1983.

60. (1) Les paragraphes 152(1.1) à (1.3) 45
de la même loi sont abrogés et remplacés par ce qui suit :

Authority of
Minister

Pouvoir du
ministre

Determination
of losses

“(1.1) Where the Minister ascertains the amount of a taxpayer’s non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year and the taxpayer has not reported that amount as such a loss in his return of income for that year, the Minister shall, at the request of the taxpayer, determine, with all due dispatch, the amount of such loss and shall send a notice of determination to the person by whom the return was filed.

Provisions
applicable

(1.2) The provisions of paragraphs 56(1)(l) and 60(o), this Division and Division J, as they relate to an assessment or a reassessment and to assessing and reassessing tax, are applicable, with such modifications as the circumstances require, to a determination or redetermination and to determining and redetermining amounts under this Division, except that subsections (1) and (2) are not applicable to determinations made under subsection (1.1) and, for greater certainty, an original determination of a taxpayer’s non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year may be made by the Minister only at the request of the taxpayer.

Determination
binding

(1.3) For greater certainty, where the Minister makes a determination of the amount of a taxpayer’s non-capital loss, net capital loss, restricted farm loss, farm loss or limited partnership loss for a taxation year, the determination is (subject to the taxpayer’s rights of objection and appeal in respect of the determination and to any redetermination by the Minister) binding on both the Minister and the taxpayer for the purposes of calculating the taxable income of the taxpayer in any other year.”

(2) Subsection 152(6) of the said Act is amended by striking out the word “or” at the

Détermination
des pertes par le
ministre

«(1.1) Lorsque le ministre établit le montant de la perte autre qu’une perte en capital, de la perte en capital nette, de la perte agricole restreinte, de la perte agricole ou de la perte comme commanditaire ou assimilé subie par un contribuable pour une année d’imposition et que le contribuable n’a pas déclaré ce montant comme perte dans sa déclaration de revenu pour cette année, le ministre doit, à la demande du contribuable et avec toute la diligence possible, déterminer le montant de cette perte et envoyer un avis de détermination à la personne qui a produit la déclaration.

Dispositions
applicables

(1.2) Les alinéas 56(1)l) et 60o), la présente section et la section J, dans la mesure où y est visé une cotisation ou une nouvelle cotisation ou l’établissement d’une cotisation ou d’une nouvelle cotisation, s’appliquent, avec les adaptations nécessaires, à une détermination ou nouvelle détermination de montants en vertu de la présente section, sauf que les paragraphes (1) et (2) ne s’appliquent pas aux déterminations faites selon le paragraphe (1.1). Notamment, le montant d’une perte autre qu’une perte en capital, d’une perte en capital nette, d’une perte agricole restreinte, d’une perte agricole ou d’une perte comme commanditaire ou assimilé subie par un contribuable pour une année d’imposition ne peut être initialement déterminé par le ministre qu’à la demande du contribuable.

Détermination
obligatoire

(1.3) Lorsque le ministre détermine le montant d’une perte autre qu’une perte en capital, d’une perte en capital nette, d’une perte agricole restreinte, d’une perte agricole ou d’une perte comme commanditaire ou assimilé subie par un contribuable pour une année d’imposition, sous réserve des droits d’opposition et d’appel du contribuable à l’égard de la détermination et sous réserve de toute nouvelle détermination par le ministre, le montant déterminé lie à la fois le ministre et le contribuable aux fins du calcul du revenu imposable du contribuable pour toute autre année.»

(2) Le paragraphe 152(6) de la même loi est modifié par suppression du mot «ou» à la

end of paragraph (e) thereof and by adding thereto, immediately after paragraph (f) thereof, the following paragraphs:

“(g) a deduction under subsection 120.2(2) in respect of his minimum tax for a subsequent taxation year, or
(h) a deduction by virtue of an election for a subsequent taxation year under paragraph 164(6)(c) or (d) by his legal representative,”

(3) Subsection (1) is applicable after February 25, 1986.

(4) Subsection (2) is applicable to taxation years commencing after 1983.

61. In its application to the 1986 taxation year, subparagraph 155(1)(a)(i) of the said Act shall be read as follows:

“(i) the amount estimated by the individual to be the tax payable under this Part by him for the year computed without reference to sections 127.2 and 127.3 and Division E.1, or”

62. In its application to the 1986 taxation year, subparagraph 156(1)(a)(i) of the said Act shall be read as follows:

“(i) the amount estimated by the individual to be the tax payable under this Part by him for the year computed without reference to sections 127.2 and 127.3 and Division E.1, or”

63. (1) Section 160.1 of the said Act is amended by adding thereto, immediately after subsection (1) thereof, the following subsection:

“(1.1) Where at any time the Minister determines that as a consequence of the operation of section 122.4 an amount has been refunded to a taxpayer for a taxation year in excess of the amount to which he was entitled as a refund, the rules set out in subsection (1) apply.”

(2) Section 160.1 of the said Act is further amended by adding thereto, immediately

fin de l'alinéa e) et par adjonction de ce qui suit :

«(g) déduction en application du paragraphe 120.2(2) à l'égard de l'impôt minimum du contribuable pour une année d'imposition subséquente, ou
h) déduction à cause d'un choix pour une année d'imposition subséquente effectué par son représentant légal en vertu de l'alinéa 164(6)c) ou d),»

(3) Le paragraphe (1) s'applique après le 25 février 1986.

(4) Le paragraphe (2) s'applique aux années d'imposition commençant après 1983.

61. Pour son application à l'année d'imposition 1986, le sous-alinéa 155(1)a)(i) de la même loi est remplacé par ce qui suit :

«(i) de la somme que ce particulier estime être l'impôt qu'il doit payer pour l'année en vertu de la présente partie, calculé sans tenir compte des articles 127.2 et 127.3 et de la section E.1, ou»

62. Pour son application à l'année d'imposition 1986, le sous-alinéa 156(1)a)(i) de la 25 même loi est remplacé par ce qui suit :

«(i) de la somme que ce particulier estime être l'impôt qu'il doit payer pour l'année en vertu de la présente partie, calculé sans tenir compte des 30 articles 127.2 et 127.3 et de la section E.1, ou»

63. (1) L'article 160.1 de la même loi est modifié par insertion, après le paragraphe (1), de ce qui suit :

«(1.1) Lorsque, à une date quelconque, le ministre détermine que, par application de l'article 122.4, un contribuable a été remboursé pour une année d'imposition d'un montant supérieur à celui dont il 40 avait le droit de l'être, les mêmes règles qu'au paragraphe (1) s'appliquent.»

(2) L'article 160.1 de la même loi est modifié par insertion, après le paragraphe (2), de ce qui suit :

after subsection (2) thereof, the following subsection:

Joint liability
for refunds by
reason of
section 122.4

“(2.1) Where a person who was the spouse of an individual in a taxation year was a qualified relation (within the meaning assigned by subsection 122.4(1)) of the individual for the year, the person and the individual are jointly and severally liable to pay any excess described in subsection (1) or (1.1) that was refunded to the individual in respect of the year as a consequence of the operation of section 122.4 and interest on that excess, but nothing in this subsection shall be deemed to limit the liability of any person under any other provision of this Act.”

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«(2.1) Le particulier et la personne qui, étant son conjoint dans une année d'imposition, est un proche admissible du particulier — au sens du paragraphe 122.4(1) — pour l'année sont débiteurs solidaires de l'excédent, visé au paragraphe (1.1), remboursé au particulier pour l'année par application de l'article 122.4 ainsi que des intérêts sur cet excédent; le présent paragraphe ne limite en rien la responsabilité de quiconque découlant d'une autre disposition de la présente loi.»

Solidarité en cas de remboursement en trop du crédit pour taxe de vente

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(3) Subsection 160.1(3) of the said Act is repealed and the following substituted therefor:

(3) Le paragraphe 160.1(3) de la même loi est abrogé et remplacé par ce qui suit :

Assessment

“(3) The Minister may at any time assess a taxpayer in respect of any amount payable by him by virtue of subsection (1) or (1.1) or for which he is liable by virtue of subsection (2) or (2.1) and the provisions of this Division are applicable, with such modifications as the circumstances require, in respect of an assessment made under this section as though it had been made under section 152.”

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«(3) Le ministre peut, à tout moment, cotiser un contribuable pour tout montant que celui-ci doit payer en vertu du paragraphe (1) ou (1.1) ou dont il est débiteur solidaire en vertu du paragraphe (2) ou (2.1); les dispositions de la présente section s'appliquent, avec les adaptations nécessaires, à une cotisation établie en vertu du présent article comme si elle l'était en vertu de l'article 152.»

Cotisation

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(4) Subsections (1) to (3) are applicable to the 1986 and subsequent taxation years.

(4) Les paragraphes (1) à (3) s'appliquent aux années d'imposition 1986 et suivantes.

64. (1) Paragraph 161(7)(a) of the said Act is amended by striking out the word “or” at the end of subparagraph (vi) thereof and by adding thereto, immediately after subparagraph (vi) thereof, the following subparagraph:

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64. (1) L'alinéa 161(7)a) de la même loi est modifié par suppression du mot «ou» à la fin du sous-alinéa (vi) et par insertion, après ce sous-alinéa, de ce qui suit :

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“(vi.1) any amount deducted under subsection 120.2(2) in respect of his minimum tax for a subsequent taxation year, or”

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«(vi.1) un montant déduit en application du paragraphe 120.2(2) à l'égard de l'impôt minimum du contribuable pour une année d'imposition ultérieure, ou»

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(2) Subsection (1) is applicable to a taxation year commencing after 1983.

(2) Le paragraphe (1) s'applique aux années d'imposition commençant après 1983.

65. (1) Subsection 163(2) of the said Act is amended by adding thereto, immediately after paragraph (b) thereof, the following paragraph:

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65. (1) Le paragraphe 163(2) de la même loi est modifié par insertion, après l'alinéa b), de ce qui suit :

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“(b.1) 25% of the amount, if any, by which

(i) the amount that would be deemed by subsection 122.4(3) to be paid for the year by him or, where he is the spouse and a qualified relation of an eligible individual for the year (within the meanings assigned by subsection 122.4(1)), by that individual, as the case may be, if that amount were calculated by reference to the information provided in the prescribed form filed for the year pursuant to subsection 122.4(3)

exceeds

(ii) the amount that is deemed by subsection 122.4(3) to be paid for the year by him or the eligible individual of whom he is the spouse, as the case may be,”

(2) Section 163 of the said Act is further amended by adding thereto, immediately after subsection (2.1) thereof, the following subsection:

“(2.2) Every person who, knowingly, or under circumstances amounting to gross negligence has made or has participated in, assented to or acquiesced in the making of, a false statement or omission in any renunciation that is effective as of a particular date and that is made under any of subsections 66(10) to (10.3), (12.6), (12.62) and (12.64) is liable to a penalty of 25% of the amount, if any, by which

(a) the amount set out in the renunciation in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses

exceeds

(b) the amount in respect of Canadian exploration expenses, Canadian development expenses or Canadian oil and gas property expenses, as the case may be, that the corporation was entitled under the subsection to renounce as of that particular date.”

«b.1) de 25 % de l'excédent éventuel

(i) du montant qui serait réputé, en vertu du paragraphe 122.4(3), versé pour l'année soit par cette personne, soit, si celle-ci est le conjoint proche admissible d'un particulier admissible — au sens du paragraphe 122.4(1) — pour l'année, par ce particulier, s'il était calculé à partir des renseignements fournis dans le formulaire réglementaire produit pour l'année conformément au paragraphe 122.4(3),

sur

(ii) le montant réputé, en vertu du paragraphe 122.4(3), versé pour l'année soit par cette personne, soit par le particulier admissible dont elle est le conjoint,»

(2) L'article 163 de la même loi est modifié par insertion, après le paragraphe (2.1), de ce qui suit :

«(2.2) Toute personne qui, sciemment ou dans des circonstances qui justifient l'imputation d'une faute lourde, fait un faux énoncé ou une omission dans une renonciation, prenant effet à une date donnée, faite en vertu d'un des paragraphes 66(10) à (10.3), (12.6), (12.62) ou (12.64), ou qui participe, consent ou acquiesce à ce faux énoncé ou à cette omission, est passible d'une pénalité correspondant à 25 % de l'excédent éventuel :

a) du montant, indiqué dans la renonciation, au titre de frais d'exploration au Canada, de frais d'aménagement au Canada ou de frais à l'égard de biens canadiens relatifs au pétrole et au gaz,

sur

b) le montant au titre de frais d'exploration au Canada, de frais d'aménagement au Canada ou de frais à l'égard de biens canadiens relatifs au pétrole et au gaz auquel la corporation avait le droit de renoncer en vertu d'un de ces paragraphes à cette date donnée.»

False statement
or omissions

Faux énoncés et
omissions

(3) Subsection (1) is applicable to the 1986 and subsequent taxation years.

(3) Le paragraphe (1) s'applique aux années d'imposition 1986 et suivantes.

66. (1) Subsection 164(5) of the said Act is amended by striking out the word "or" at the end of paragraph (h) thereof, by adding the word "or" at the end of paragraph (h.1) thereof and by adding thereto, immediately after paragraph (h.1) thereof, the following paragraph:

66. (1) Le paragraphe 164(5) de la même loi est modifié par suppression du mot «ou» à la fin de l'alinéa h), par adjonction de ce mot à la fin de l'alinéa h.1) et par insertion, après cet alinéa, de ce qui suit :

"(h.2) the deduction of an amount 10 under subsection 120.2(2) in respect of his minimum tax for a subsequent taxation year,"

«h.2) la déduction d'un montant, en application du paragraphe 120.2(2), à l'égard de l'impôt minimum du contribuable pour une année d'imposition ultérieure,»

(2) Subsection 164(5.1) of the said Act is amended by striking out the word "or" at the end of paragraph (h) thereof, by adding the word "or" at the end of paragraph (h.1) thereof and by adding thereto, immediately after paragraph (h.1) thereof, the following paragraph:

(2) Le paragraphe 164(5.1) de la même loi est modifié par suppression du mot «ou» à la fin de l'alinéa h), par insertion de ce mot à la fin de l'alinéa h.1) et par insertion, après cet alinéa, de ce qui suit :

"(h.2) the deduction of an amount under subsection 120.2(2) in respect of his minimum tax for a subsequent taxation year,"

«h.2) la déduction d'un montant, en application du paragraphe 120.2(2), à l'égard de l'impôt minimum du contribuable pour une année d'imposition ultérieure,»

(3) Subsections (1) and (2) are applicable 25 to taxation years commencing after 1983.

(3) Les paragraphes (1) et (2) s'appliquent aux années d'imposition commençant après 1983.

67. (1) Subsections 180.1(1) to (3) of the said Act are repealed and the following substituted therefor:

67. (1) Les paragraphes 180.1(1) à (3) de la même loi sont abrogés et remplacés par ce qui suit :

"180.1 (1) Every individual liable to 30 pay tax under Part I for a taxation year shall pay a tax equal to 3% of his tax payable under Part I for the year.

«180.1 (1) Tout particulier redevable d'un impôt en vertu de la partie I pour une 30 année d'imposition doit payer une surtaxe au taux de 3 % sur cet impôt.

Surtaxe des particuliers

(1.1) There may be deducted from the tax otherwise payable under this Part for a 35 taxation year by an individual the amount, if any, by which

(1.1) Est déductible de la surtaxe payable en vertu de la présente partie pour une année d'imposition par un particulier l'ex- 35 cédent éventuel

Crédit pour impôt étranger

(a) the aggregate of all amounts that would be

a) du total des montants qui seraient soit déductibles en vertu de l'article 126 par le particulier pour l'année, soit son crédit spécial pour impôts étrangers 40 pour l'année calculé selon l'article 127.54, si tout renvoi dans l'article 126 à l'impôt payable par ailleurs pour l'année en vertu de la partie I par le particu-

(i) deductible by him under section 40 126 for the year, or
(ii) his special foreign tax credit for the year determined under section 127.54,

Individual
surtax

Foreign tax
deduction

if the references in section 126 to "the tax for the year otherwise payable under this Part by him" were read as "the aggregate of the tax for the year otherwise payable under this Part by him and the tax for the year that would be payable by him under Part I.1 but for subsection 180.1(1.1)"

exceeds

(b) the aggregate of all amounts deductible by him under section 126 for the year and his special foreign tax credit for the year determined under section 127.54.

Meaning of tax payable under Part I

(2) For the purposes of subsection (1), the tax payable under Part I by an individual for a taxation year is the amount, if any, by which

(a) where section 119 is applicable in computing his tax payable for the year, the amount that would be his average tax for the year of averaging, as determined under paragraph (1)(d) thereof, if the expression "deductible under subsection 127(5)" in that paragraph were read as "added under subsection 120(1) or deductible under sections 122.3, 126, 127 and 127.2 to 127.4", and

(b) in any other case, the amount that would be his tax payable under that Part for the year if that Part were read without reference to subsections 120(1) and (3.1) and sections 122.3, 126, 127 and 127.2 to 127.4

exceeds

(c) where the individual was throughout the year a mutual fund trust, the least of the amounts determined under clauses 132(4)(b)(i)(A) to (C) in respect of the trust for the year, and

(d) in any other case, nil.

Estimate of tax

(3) Every individual required by section 150 to file a return of income for a taxation year shall in the return estimate the amount of tax payable by him under this Part for the year."

lier était remplacé par un renvoi au total de l'impôt payable par ailleurs pour l'année en vertu de la partie I et de la surtaxe payable pour l'année en vertu de la présente partie, abstraction faite du présent paragraphe, par le particulier

sur

b) le total des montants déductibles en vertu de l'article 126 par le particulier pour l'année et de son crédit spécial pour impôts étrangers pour l'année calculé selon l'article 127.54.

(2) Pour l'application du paragraphe (1), l'impôt dont est redevable un particulier en vertu de la partie I pour une année d'imposition correspond à l'excédent éventuel

Impôt payable en vertu de la partie I

a) dans le cas où l'article 119 s'applique au calcul de l'impôt payable par le particulier pour l'année, du montant qui serait son impôt moyen pour l'année d'établissement de la moyenne calculé selon l'alinéa 119(1)d) si la mention «déductible pour l'année en vertu du paragraphe 127(5)» y était remplacée par la mention «ajouté pour l'année en vertu du paragraphe 120(1) ou déductible pour l'année en vertu des articles 122.3, 126, 127 et 127.2 à 127.4»,

b) dans les autres cas, du montant qui serait l'impôt payable par le particulier pour l'année en vertu de la partie I s'il n'était pas tenu compte des paragraphes 120(1) et (3.1) et des articles 122.3, 126, 127 et 127.2 à 127.4,

sur

c) dans le cas d'un particulier qui est tout au long de l'année une fiducie de fonds mutuels, le moindre des montants déterminés à son égard pour l'année aux divisions 132(4)b)(i)(A) à (C),

d) dans les autres cas, zéro.

(3) Tout particulier tenu par l'article 150 de produire une déclaration de revenu pour une année d'imposition doit estimer, dans cette déclaration, la surtaxe qu'il doit

Estimation de la surtaxe

(2) Subsection (1) is applicable to the 1986 and subsequent taxation years except that, in its application to the 1986 taxation year, subsection 180.1(1) of the said Act, as enacted by subsection (1), shall be read as follows:

“180.1 (1) Every individual liable to pay tax under Part I for a taxation year shall pay a tax equal to the aggregate of

(a) 1½% of his tax payable under Part I 10 for the year,

(b) 5% of the amount, if any, by which his tax payable under Part I for the year exceeds \$6,000, and

(c) 5% of the amount, if any, by which 15 his tax payable under Part I for the year exceeds \$15,000.”

68. Paragraph 181(1)(a) of the said Act is repealed and the following substituted therefor:

“(a) 12½% of the aggregate of taxable dividends paid by the corporation in the year and before 1987 and at a time when the corporation was not exempt from tax under Part I, other than tax- 25 able dividends paid in respect of a small business development bond to a person with whom the corporation was dealing at arm’s length, and”

69. (1) Part II of the said Act is repealed. 30

(2) Subsection (1) is applicable with respect to taxes payable for taxation years commencing after 1986.

70. (1) Section 184 of the said Act is amended by adding thereto, immediately 35 after subsection (3.1) thereof, the following subsection:

“(3.2) Where a corporation has elected in accordance with subsection 83(2) in respect of the full amount of any dividend 40 that became payable by it at a particular time after December 3, 1985 and before 1986 and the corporation made a reason-

payer en vertu de la présente partie pour l’année.»

(2) Le paragraphe (1) s’applique aux années d’imposition 1986 et suivantes. Toutefois, pour son application à l’année d’impo- 5 sition 1986, le paragraphe 180.1(1) de la même loi, édicté par le paragraphe (1), est remplacé par ce qui suit :

«180.1 (1) Tout particulier redevable d’un impôt en vertu de la partie I pour une 10 année d’imposition doit payer une surtaxe :

a) au taux de 1 ½ % sur cet impôt;

b) au taux de 5 % sur l’excédent éventuel de cet impôt sur 6 000 \$; et

c) au taux de 5 % sur l’excédent éven- 15 tuel de cet impôt sur 15 000 \$.»

68. L’alinéa 181(1)a) de la même loi est abrogé et remplacé par ce qui suit :

«a) 12 ½ % du total des dividendes imposables versés par la corporation 20 dans l’année et avant 1987, à une date où elle n’était pas exonérée de l’impôt en vertu de la partie I, à l’exception des dividendes imposables versés au titre 25 d’une obligation pour le développement de la petite entreprise à une personne avec laquelle la corporation n’avait aucun lien de dépendance,»

69. (1) La partie II de la même loi est abrogée. 30

(2) Le paragraphe (1) s’applique aux impôts payables pour les années d’imposition commençant après 1986.

70. (1) L’article 184 de la même loi est modifié par insertion, après le paragraphe 35 (3.1), de ce qui suit :

«(3.2) Dans le cas où une corporation a fait le choix prévu au paragraphe 83(2) concernant le montant total d’un dividende devenu payable par elle à une date donnée 40 postérieure au 3 décembre 1985 et antérieure au 1^{er} janvier 1986, où elle a fait un

Idem

able attempt to correctly determine its capital dividend account immediately before the particular time and all or any portion of the dividend is an excess referred to in subsection (2), if

(a) the corporation so elects under this subsection not later than 90 days after the later of

(i) the day on which this subsection comes into force, and

(ii) the day on which the Minister notifies the corporation by registered letter that it has an excess referred to in subsection (2) in respect of the dividend, and

(b) the penalty referred to in subsection (5) in respect of such election is paid by the corporation at the time the election under this subsection is made,

the following rules apply:

(c) all or such portion of the dividend as the corporation may claim shall, for the purposes of this Act, be deemed not to be a dividend but to be a loan made at the particular time by the corporation to the persons who received all or any portion of the dividend if the full amount of such loan is repaid to the corporation before such date as is stipulated by the Minister and the corporation satisfies such terms and conditions as are specified by the Minister, and

(d) sections 15 and 80.4 do not apply to such a loan."

(2) Subsections 184(4) and (5) of the said Act are repealed and the following substituted therefor:

"(4) An election under subsection (3), (3.1) or (3.2) is not valid unless it is made with the concurrence of the corporation and all the shareholders who received or were entitled to receive all or any portion of the dividend in respect of which a tax would, but for subsection (3), (3.1) or (3.2), be payable under this Part or under Part I and whose addresses were known to the corporation.

(5) The penalty in respect of an election under subsection (3.1) or (3.2) in relation

effort raisonnable pour calculer correctement le montant de son compte de dividendes en capital immédiatement avant cette date donnée et où la totalité ou une partie du dividende est un excédent visé au paragraphe (2),

a) si la corporation en fait le choix au plus tard le 90^e jour suivant :

(i) la date d'entrée en vigueur du présent paragraphe, ou

(ii) la date où le ministre informe la corporation, par lettre recommandée, qu'elle a un excédent visé au paragraphe (2) à l'égard du dividende, si cette date est postérieure, et

b) si la pénalité relative à ce choix, prévue au paragraphe (5), est payée par la corporation à la date du choix,

les règles suivantes s'appliquent :

c) la totalité ou la partie du dividende que la corporation choisit est réputée, pour l'application de la présente loi, ne pas être un dividende mais être un prêt consenti à la date donnée par la corporation aux personnes qui ont reçu la totalité ou une partie du dividende dans la mesure où le montant total du prêt est remboursé à la corporation avant la date fixée par le ministre et où la corporation remplit les conditions fixées par le ministre;

d) les articles 15 et 80.4 ne s'appliquent pas à un tel prêt."

(2) Les paragraphes 184(4) et (5) de la même loi sont abrogés et remplacés par ce qui suit :

«(4) Pour être valide, le choix prévu au paragraphe (3), (3.1) ou (3.2) doit être fait avec l'assentiment de la corporation et de tous les actionnaires, dont la corporation connaissait les adresses, qui ont reçu ou qui avaient le droit de recevoir la totalité ou une partie du dividende sur lequel un impôt serait, sans le paragraphe (3), (3.1) ou (3.2), payable en vertu de la présente partie ou de la partie I.

(5) La pénalité relative à un choix fait en vertu du paragraphe (3.1) ou (3.2),

Choix à approuver par les actionnaires

Pénalité

Concurrence
with election

Penalty

to a particular dividend is an amount equal to the product obtained when \$500 is multiplied by the proportion that the number of months or parts of months during the period commencing on the day the dividend became payable and ending on the day on which that election was made is of 12.”		concernant un dividende donné est égale au produit de 500 \$ par le rapport entre le nombre de mois ou parties de mois écoulés depuis la date où le dividende est devenu payable jusqu’à la date du choix et 12.»	
71. (1) All that portion of subsection 186(1) of the said Act preceding paragraph (a) thereof is repealed and the following substituted therefor:		71. (1) Le passage du paragraphe 186(1) de la même loi qui précède l’alinéa a) est abrogé et remplacé par ce qui suit :	
Taxes payable on certain taxable dividends	“186. (1) Every corporation (in this section referred to as the “particular corporation”) that was, at any time in a taxation year, a corporation (other than a private corporation) resident in Canada and controlled directly or indirectly in any manner whatever, whether by virtue of a beneficial interest in one or more trusts or otherwise, by or for the benefit of an individual (other than a trust) or a related group of individuals (other than trusts) (in this Part referred to as a “subject corporation”) or a private corporation shall, on or before the last day of the third month after the end of the year, pay a tax under this Part for the year equal to $\frac{1}{3}$ of the amount, if any, by which the aggregate of”	Impôt payable sur certains dividendes imposables	«186. (1) Toute corporation (appelée «corporation donnée» au présent article) qui, à une date quelconque d’une année d’imposition, était une corporation privée ou était une corporation dite «assujettie» dans la présente partie — autre qu’une corporation privée — résidant au Canada et contrôlée directement ou indirectement de quelque manière que ce soit, au moyen d’une participation dans une ou plusieurs fiducies ou autrement par un particulier (autre qu’une fiducie) ou un groupe lié de particuliers (autres que des fiducies) ou à son profit, est redevable, au plus tard le dernier jour du troisième mois suivant la fin de l’année, d’un impôt en vertu de la présente partie pour l’année égal au tiers de la fraction éventuelle du total»
	(2) Subparagraph 186(1)(b)(i) of the said Act is repealed and the following substituted therefor:		(2) Le sous-alinéa 186(1)b)(i) de la même loi est abrogé et remplacé par ce qui suit :
	“(i) 3 times the dividend refund of the payer corporation for its taxation year in which it paid the dividend,”		«(i) de trois fois le montant du remboursement au titre de dividendes reçu par la corporation payante pour son année d’imposition où elle a versé le dividende,»
Presumption	(3) All that portion of subsection 186(5) of the said Act preceding paragraph (b) thereof is repealed and the following substituted therefor:	Présomption	(3) Le passage du paragraphe 186(5) qui précède l’alinéa b) est abrogé et remplacé par ce qui suit :
	“(5) A corporation that was at the end of a taxation year commencing after November 12, 1981 a subject corporation or a private corporation that was at any time in the year a subject corporation shall, for the purposes of paragraphs 87(2)(aa) and 88(1)(e.5) and section 129,		«(5) Une corporation qui était, à la fin d’une année d’imposition commençant après le 12 novembre 1981, une corporation assujettie ou une corporation privée qui, à une date quelconque de l’année, était une corporation assujettie est réputée, aux fins des alinéas 87(2)aa) et 88(1)e.5)

be deemed to have been a private corporation at the times in the year that it was a subject corporation, except that its refundable dividend tax on hand at the end of the year shall be deemed to be the amount, if any, by which the aggregate of

(a) the aggregate of the taxes under this Part payable by the corporation for the year and any previous taxation years ending after it last became a subject corporation, and

(a.1) the amount, if any, of the corporation's addition at December 31, 1986 of refundable dividend tax on hand (within the meaning assigned by subsection 129(3.3)), exceeds"

(4) Subsections (1) and (2) are applicable with respect to taxable dividends received in the 1987 and subsequent taxation years except that, for a taxation year commencing before 1987 and ending after 1986, the following rules apply:

(a) in their application to amounts described in paragraphs 186(1)(a) and (b) of the said Act that are received by the corporation in the year and before 1987, the reference in subsection 186(1) of the said Act to "1/3" and the reference in subparagraph (b)(i) thereof to "3" shall be read as references to "1/4" and "4" respectively; and

(b) amounts deducted by the corporation under paragraph 186(1)(c) or (d) of the said Act for the year shall

(i) be deemed to have been deducted in respect of amounts described in paragraphs 186(1)(a) and (b) thereof that were received by the corporation in the year and after 1986, and

(ii) to the extent that the amounts deducted exceed the amounts referred to in subparagraph (i), be deemed to have been deducted in respect of amounts described in paragraphs 186(1)(a) and (b) thereof that were received by the corporation in the year and before 1987.

et de l'article 129, avoir été une corporation privée aux dates de l'année auxquelles elle était une corporation assujettie, sauf que son impôt en main remboursable au titre de dividendes à la fin de l'année est réputé être l'excédent éventuel du total des montants suivants :

a) le total des impôts payables par la corporation en vertu de la présente partie pour l'année et pour toute année d'imposition antérieure se terminant après la date à laquelle la corporation est devenue pour la dernière fois une corporation assujettie,

a.1) le montant éventuellement ajouté au 31 décembre 1986 à l'impôt en main remboursable au titre de dividendes de la corporation, au sens du paragraphe 129(3.3),

sur»

(4) Les paragraphes (1) et (2) s'appliquent aux dividendes imposables reçus au cours des années d'imposition 1987 et suivantes. Toutefois, pour une année d'imposition commençant avant 1987 et se terminant après 1986, les règles suivantes s'appliquent :

a) pour l'application des paragraphes (1) et (2) aux montants, visés aux alinéas 186(1)a) et b) de la même loi, reçus par la corporation dans l'année et avant 1987, les mentions «tiers» au paragraphe 186(1) de la même loi, édicté par le paragraphe (1), et «trois fois» au sous-alinéa 186(1)b)(i) de la même loi, édicté par le paragraphe (2), sont remplacées respectivement par les mentions «quart» et «quatre fois»;

b) les montants déduits par la corporation selon l'alinéa 186(1)c) ou d) de la même loi pour l'année sont :

(i) d'une part, réputés déduits au titre des montants, visés aux alinéas 186(1)a) et b) de la même loi, que la corporation a reçus dans l'année et après 1986,

(ii) d'autre part, réputés déduits au titre de montants, visés aux alinéas 186(1)a) et b) de la même loi, que la corporation a reçus dans l'année et avant 1987, dans la mesure où les montants déduits dépassent les montants visés au sous-alinéa (i).

(5) Subsection (3) is applicable with respect to the 1987 and subsequent taxation years.

72. (1) Subsection 204.2(1) of the said Act is amended by adding the word "and" at the end of paragraph (c) thereof and by repealing paragraphs (d) and (e) thereof and substituting the following therefor:

"(d) the greater of \$5500 and the amount the taxpayer is entitled to 10 deduct in computing his income for the year in respect of those payments."

(2) Subsection (1) is applicable with respect to payments made to a registered retirement savings plan after 1985.

73. (1) The definition "foreign property" in subsection 206(1) of the said Act is amended by adding thereto, immediately after paragraph (d) thereof, the following paragraph: 20

"(d.1) any share of the capital stock of or any debt obligation issued by a Canadian corporation, if shares of the corporation may reasonably be considered to derive their value, directly or 25 indirectly, primarily from portfolio investments in property that is foreign property, but not including a share of a corporation listed on a prescribed stock exchange in Canada that is of a class of 30 the capital stock of the corporation no share of which has been issued after December 4, 1985 (otherwise than pursuant to an agreement in writing entered into before 5:00 p.m. Eastern Standard 35 Time on December 4, 1985),"

(2) All that portion of the definition "small business property" in subsection 206(1) of the said Act following paragraph (d) thereof is repealed and the following 40 substituted therefor:

"where the taxpayer is

(e) a prescribed person in respect of the property, or

(f) the first person (other than a broker 45 or dealer in securities) to have acquired

(5) Le paragraphe (3) s'applique aux années d'imposition 1987 et suivantes.

72. (1) Le paragraphe 204.2(1) de la même loi est modifié par adjonction du mot «et» à la fin de l'alinéa c) et par abrogation 5 des alinéas d) et e), qui sont remplacés par ce qui suit :

«d) du plus élevé de 5 500 \$ ou du montant que le contribuable a droit de déduire dans le calcul de son revenu 10 pour l'année relativement à ces versements.»

(2) Le paragraphe (1) s'applique aux versements faits après 1985 à des régimes enre- 15 gistrés d'épargne-retraite.

73. (1) La définition de «bien étranger», au paragraphe 206(1) de la même loi, est modifiée par insertion, après l'alinéa d), de ce qui suit :

«d.1) action du capital-actions d'une 20 corporation canadienne ou titre de créance émis par une corporation canadienne, s'il est raisonnable de fonder principalement la valeur des actions de la corporation, directement ou indirecte- 25 ment, sur des placements de portefeuille en biens étrangers, à l'exclusion d'une action d'une corporation cotée à une bourse de valeurs canadienne prescrite qui fait partie d'une catégorie du capi- 30 tal-actions de la corporation dont aucune action n'est émise après le 4 décembre 1985 (autrement que conformément à une convention écrite conclue avant 17 heures, heure normale de l'Est, 35 le 4 décembre 1985);»

(2) Le passage de la définition de «bien de petite entreprise», au paragraphe 206(1) de la même loi, qui précède l'alinéa a) est 40 abrogé et remplacé par ce qui suit :

«bien de petite entreprise» Bien qu'un contribuable — qui est soit une personne visée par règlement, soit la première personne, à l'exception d'un courtier en valeurs, à l'acquérir si le bien lui appar- 45 tient depuis sans interruption —

«bien de petite entreprise»
"small business property"

the property and the taxpayer has owned the property continuously since it was so acquired."

acquiert à une date postérieure au 31 octobre 1985 et qui, à cette date, est :

(3) Subsection (1) is applicable in respect of shares and indebtedness acquired after December 4, 1985, otherwise than pursuant to an agreement in writing entered into before 5:00 p.m. Eastern Standard Time on December 4, 1985.

(3) Le paragraphe (1) s'applique aux 5 actions et titres de créance acquis après le 4 décembre 1985, autrement que conformé- 5 ment à une convention écrite conclue avant 17 heures, heure normale de l'Est, le 4 décembre 1985.

(4) Subsection (2) is applicable with 10 respect to periods occurring after October 31, 1985.

(4) Le paragraphe (2) s'applique aux 10 périodes postérieures au 31 octobre 1985.

74. (1) The said Act is further amended by adding thereto, immediately after section 208 thereof, the following Part:

15 74. (1) La même loi est modifiée par insertion, après l'article 208, de ce qui suit :

"PART XII.1

TAX ON CARVED-OUT INCOME

Definitions

"carved-out income"
«revenus miniers et pétroliers»

209. (1) For the purposes of this Part,

"carved-out income" of a person for a taxation year from a carved-out property means the amount, if any, by which (a) his income for the year attributable to the property computed under Part I on the assumption that in computing that income no deduction was allowed under section 20 (other than a deduction under paragraph 20(1)(v.1)), subdivision e of Division B of Part I or section 104,

exceeds the aggregate of

(b) the amount deducted under subsection 66.4(2) in computing his income for the year to the extent that it may reasonably be considered to be attributable to the property, and (c) to the extent that the property is an interest in a bituminous sands deposit, oil sands deposit or oil shale deposit, the amount deducted under subsection 66.2(2) in computing his income for the year to the extent that it may reasonably be considered to be attributable to the cost of that interest;

«PARTIE XII.1

IMPÔT SUR LES REVENUS MINIERS ET PÉTROLIERS TIRÉS DE BIENS RESTREINTS

Définitions

209. (1) Les définitions qui suivent s'appliquent à la présente partie.

«bail initial» Contrat par lequel un droit, 15 «bail initial» permis ou privilège pour l'exploration, le forage ou l'enlèvement du pétrole, du gaz naturel ou des hydrocarbures apparentés au Canada ou pour la prospection, l'exploration, le forage ou l'extrac- 20 tion de minéraux dans une ressource minérale au Canada, est accordé :

a) soit par Sa Majesté du chef du Canada ou d'une province;

b) soit par un autre propriétaire que 25 Sa Majesté du chef du Canada ou d'une province, pour une durée d'au moins 10 ans.

«bien restreint» L'un des biens suivants d'une personne : 30 «bien restreint»

a) un bien qui est un avoir minier canadien, restreint par une des limites suivantes :

(i) la totalité, ou presque, du montant que la personne a le droit ou 35 peut devenir en droit de recevoir sur le bien peut raisonnablement être considérée comme limitée à un maximum ou à un montant calcula-

«carved-out property»

"carved-out
property"
bien restreint

"carved-out property" of a person means

(a) a Canadian resource property where

- (i) all or substantially all of the amount that the person is or may become entitled to receive in respect of the property may reasonably be considered to be limited to a maximum amount or to an amount determinable by reference to a stated quantity of production from a mineral resource or an accumulation of petroleum, natural gas or related hydrocarbons,
- (ii) the period of time during which his interest in the income attributable to the property may reasonably be expected to continue is

(A) where the property is a head lease or may reasonably be considered to derive from a head lease, less than the lesser of 10 years and the remainder of the term of the head lease, and

(B) in any other case, less than 25 10 years,

- (iii) his interest in the income attributable to the property, expressed as a percentage of production for any period, may reasonably be expected to be reduced substantially,

(A) where the property is a head lease or may reasonably be considered to derive from a head lease, at any time before

(I) the expiry of a period of 10 years commencing when the property was acquired, or

(II) the expiry of the term of the head lease,

whichever occurs first, and

(B) in any other case, at any time before the expiry of a period of 10 years commencing when the property was acquired, or

- (iv) another person has a right under an arrangement to acquire, at any time, the property or a portion thereof or a similar property from the person and it is reasonable

ble en fonction d'un volume établi de production provenant d'une ressource minérale ou d'un gisement de pétrole, de gaz naturel ou d'hydrocarbures apparentés,

(ii) la durée du droit de la personne au revenu attribuable au bien devrait raisonnablement être inférieure :

(A) à 10 ans ou à la durée non écoulée du bail initial si cette durée est inférieure à 10 ans, dans le cas d'un bien qui est un bail initial ou qui peut être raisonnablement considéré comme en découlant,

(B) à 10 ans, dans les autres cas,

(iii) le droit de la personne au revenu attribuable au bien — exprimé en pourcentage de production pour une période donnée — devrait raisonnablement être réduit de façon importante à une des dates suivantes :

(A) à une date antérieure soit au terme de la période de 10 ans commençant à la date d'acquisition du bien, soit au terme de la durée du bail initial si ce terme est antérieur à l'autre, dans le cas d'un bien qui est un bail initial ou qui peut être raisonnablement considéré comme en découlant,

(B) à une date antérieure au terme de la période de 10 ans commençant à la date d'acquisition du bien, dans les autres cas,

(iv) un droit d'acquies de la personne, à une date quelconque, tout ou partie du bien ou un bien semblable est à une autre personne en vertu d'un mécanisme dont il est raisonnable de considérer qu'un des principaux objets — ou un des principaux objets d'une série d'opérations ou d'événements dont ce mécanisme fait partie — consiste à réduire ou reporter l'impôt payable en vertu de la présente partie, abstraction faite du présent sous-alinéa;

to consider that one of the main reasons for the arrangement, or any series of transactions or events that includes the arrangement, was to reduce or postpone tax that would, but for this subparagraph, be payable under this Part, or

(b) an interest in a partnership or trust that holds a Canadian resource property where it is reasonable to consider that one of the main reasons for the existence of the interest is to reduce or postpone the tax that would, but for this paragraph, be payable under this Part,

but does not include

(c) an interest in respect of a property that was acquired by the person under an agreement solely in consideration of his undertaking to incur Canadian exploration expense or Canadian development expense in respect of the property,

(d) a particular property acquired by the person under an arrangement solely as consideration for the sale of a Canadian resource property (other than a property that, immediately before the sale was a carved-out property of the person) that relates to the particular property except where it is reasonable to consider that one of the main reasons for the arrangement, or any series of transactions or events that includes the arrangement, was to reduce or postpone tax that would, but for this paragraph, be payable under this Act,

(e) a property retained or reserved by the person out of a Canadian resource property (other than a property that, immediately before the transaction by which the retention or reservation is made, was a carved-out property of the person) that was disposed of by him except where it is reasonable to consider that one of the main reasons for the retention or reservation, or any series of transactions or events in which the property or interest was retained or reserved, was to reduce or

b) une participation dans une société ou fiducie qui détient un avoir minier canadien, participation dont il est raisonnable de considérer qu'un des principaux objets consiste à réduire ou reporter l'impôt payable en vertu de la présente partie, abstraction faite du présent alinéa;

un bien restreint ne comprend pas toutefois :

c) un droit dans un bien que la personne n'acquiert par convention que contre engagement de sa part d'engager, en ce qui concerne ce bien, des frais d'exploration au Canada ou des frais d'aménagement au Canada;

d) un bien que la personne n'acquiert par un mécanisme qu'en contrepartie de la vente d'un avoir minier canadien — à l'exclusion d'un bien qui, juste avant la vente, était un bien restreint de cette personne — lié au bien, sauf s'il est raisonnable de considérer qu'un des principaux objets de ce mécanisme — ou un des principaux objets d'une série d'opérations ou d'événements dont ce mécanisme fait partie — consiste à réduire ou reporter l'impôt payable en vertu de la présente loi, abstraction faite du présent alinéa;

e) un bien que la personne garde ou met de côté sur un avoir minier canadien — à l'exclusion d'un bien qui, juste avant l'opération par laquelle le bien est gardé ou mis de côté, était un bien restreint de cette personne — dont elle dispose, sauf s'il est raisonnable de considérer que l'un des principaux objets de cette opération ou d'une série d'opérations ou d'événements dont cette opération fait partie consiste à réduire ou reporter l'impôt payable en vertu de la présente loi, abstraction faite du présent alinéa;

f) un bien que la personne acquiert d'un contribuable avec qui elle a un lien de dépendance à la date d'acquisition et que ce contribuable ou une personne avec qui celui-ci avait un lien de dépendance avait acquis con-

	<p>postpone tax that would, but for this paragraph, be payable under this Act, (f) a property acquired by the person from a taxpayer with whom the person did not deal at arm's length at the time of the acquisition and the property was acquired by the taxpayer or a person with whom the taxpayer did not deal at arm's length</p> <p>(i) pursuant to an agreement in writing to do so entered into before July 20, 1985, or</p> <p>(ii) under the circumstances described in paragraph (d), (e) or this paragraph,</p> <p>except where it is reasonable to consider that one of the main reasons for the acquisition of the property, or any series of transactions or events in which the property was acquired, was to reduce or postpone tax that would, but for this paragraph, be payable under this Act, or</p> <p>(g) a prescribed property;</p> <p>"head lease" means a contract under which</p> <p>(a) Her Majesty in right of Canada or a province grants, or</p> <p>(b) an owner in fee simple, other than Her Majesty in right of Canada or a province, grants for a period of not less than 10 years</p> <p>any right, licence or privilege to explore for, drill for or take petroleum, natural gas or related hydrocarbons in Canada or to prospect, explore, drill or mine for minerals in a mineral resource in Canada;</p> <p>"term" of a head lease includes all renewal periods in respect of the head lease.</p> <p>(2) Every person shall pay a tax under this Part for each taxation year equal to 50% of the aggregate of his carved-out</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p>	<p>formément à une convention écrite conclue avant le 20 juillet 1985 ou dans une situation visée aux alinéas d) ou e) ou au présent alinéa, sauf s'il est raisonnable de considérer que l'un des principaux objets de l'acquisition du bien ou d'une série d'opérations ou d'événements dans le cadre de laquelle le bien est acquis, consiste à réduire ou reporter l'impôt payable en vertu de la présente loi, abstraction faite du présent alinéa;</p> <p>g) un bien visé par règlement.</p> <p>«durée» La durée d'un bail initial en comprend les renouvellements.</p> <p>«revenus miniers et pétroliers» S'entend, lorsqu'il s'agit des revenus miniers et pétroliers qu'une personne tire pour une année d'imposition de biens restreints, de l'excédent éventuel :</p> <p>a) du revenu de la personne pour l'année attribuable aux biens restreints, calculé conformément à la partie I mais en supposant qu'aucun montant ne soit admis en déduction en vertu de l'article 20 — sauf l'alinéa 20(1)v.1) —, de la sous-section e) de la section B de la partie I ou de l'article 104,</p> <p>sur le total :</p> <p>b) du montant déduit en vertu du paragraphe 66.4(2) dans le calcul du revenu de la personne pour l'année dans la mesure où il est raisonnable de considérer ce montant comme attribuable aux biens restreints, et</p> <p>c) si des biens restreints sont des droits dans un gisement de sables bitumineux, de sables pétrolifères ou de schiste bitumineux, du montant déduit en vertu du paragraphe 66.2(2) dans le calcul du revenu de la personne pour l'année dans la mesure où il est raisonnable de considérer ce montant comme attribuable au coût de ces droits.</p> <p>(2) Toute personne est redevable, dans le cadre de la présente partie et pour chaque année d'imposition, d'un impôt au</p>	<p>5</p> <p>10</p> <p>15</p> <p>20</p> <p>25</p> <p>30</p> <p>35</p> <p>40</p> <p>45</p>	<p>«durée» "term"</p> <p>«revenus miniers et pétroliers» "carved-out income"</p> <p>Assujettissement à l'impôt</p>
Tax					

incomes for the year from carved-out properties.

Return

(3) Every person liable to pay tax under this Part for a taxation year shall file with the Minister, not later than the day on or before which he is or would be, if he were liable to pay tax under Part I for the year, required under section 150 to file a return of his income for the year under Part I, a return for the year under this Part in 10 prescribed form containing an estimate of the amount of tax payable by him under this Part for the year.

Payment of tax

(4) Where a person is liable to pay tax for a taxation year under this Part, the 15 person shall pay in respect of the year, to the Receiver General

(a) on or before the last day of each month in the year, an amount equal to 1/12 of the amount of tax payable by 20 him under this Part for the year; and

(b) the remainder, if any, of the tax payable by him under this Part for the year, on or before the end of the second month following the end of the year. 25

Provisions applicable to Part

(5) Subsections 150(2) and (3) and sections 152, 158 and 159, subsections 161(1), (2) and (11), sections 162 to 167 and Division J of Part I are applicable to this Part, with such modifications as the 30 circumstances require.

Partnerships

(6) For the purposes of subsection (1), a partnership shall be deemed to be a person and its taxation year shall be deemed to be its fiscal period." 35

(2) Subsection (1) is applicable with respect to property acquired after July 19, 1985, except property acquired before 1987 by a person from a taxpayer pursuant to the terms of an agreement in writing entered into 40 by the taxpayer

(a) before July 20, 1985 for the sale of the property to that person, or

taux de 50% sur le total des revenus miniers et pétroliers qu'elle tire de biens restreints pour cette année.

(3) La personne redevable de l'impôt prévu par la présente partie pour une 5 année d'imposition doit produire pour cette année au ministre la déclaration correspondant à la présente partie, au plus tard le jour où elle est tenue, au plus tard, de produire une déclaration de revenu pour 10 l'année en vertu de la partie I conformément à l'article 150 ou en serait tenue si elle était redevable d'un impôt en vertu de cette partie. Cette déclaration doit être produite sur formulaire réglementaire et 15 contenir une estimation de l'impôt dont la personne est redevable dans le cadre de la présente partie pour l'année.

Déclaration

(4) La personne redevable de l'impôt prévu par la présente partie pour une 20 année d'imposition doit payer au receveur général pour l'année :

Calcul de l'impôt

a) 1/12 de cet impôt, au plus tard le dernier jour de chaque mois de l'année;

b) le solde éventuel de cet impôt, au 25 plus tard à la fin du deuxième mois suivant la fin de l'année.

(5) Les paragraphes 150(2) et (3), les articles 152, 158 et 159, les paragraphes 161(1), (2) et (11), les articles 162 à 167 30 et la section J de la partie I s'appliquent à la présente partie, avec les adaptations nécessaires.

Dispositions applicables

(6) Pour l'application du paragraphe (1), une société est considérée comme une 35 personne et son année d'imposition est réputée correspondre à son exercice financier.»

Sociétés

(2) Le paragraphe (1) s'applique aux biens restreints acquis après le 19 juillet 1985, à 40 l'exclusion de ceux qui sont acquis avant 1987 d'un contribuable par une personne conformément à une convention de vente à cette personne conclue par écrit par le contribuable :

a) soit avant le 20 juillet 1985; 45

(b) after July 19, 1985 for the sale of the property to that person where the agreement is entered into in the same or substantially the same terms as, and is intended to replace an agreement in writing between the person and the taxpayer

(i) that was entered into before July 20, 1985 for the sale of the property to that person, and

(ii) that was cancelled, terminated or not proceeded with,

and for the purposes of this subsection, where an agreement entered into before July 20, 1985 pursuant to which a person acquired or holds a property is renewed or a material change is made in its terms and conditions, including any material change made

(c) in the interest of the person in the property or in the income attributable to the property,

(d) in the description of the property,

(e) that results in a change in the period during which the property is to exist or is to be held,

(f) in the parties to the agreement, or

(g) in the purchase price of the property,

the property shall be deemed to have been acquired pursuant to an agreement entered into on the date the agreement is renewed or the terms or conditions are changed, as the case may be.

75. (1) Clause 212(1)(b)(iii)(D) of the said Act is repealed and the following substituted therefor:

“(D) an amount not repayable in Canadian currency deposited with an institution that was at the time the amount was deposited or at the time the interest was paid or credited a prescribed financial institution,”

(2) Subparagraph 212(1)(b)(vii) of the said Act is amended by striking out the word “or” at the end of clause (C) thereof, by adding the word “or” at the end of clause (D) thereof and by adding thereto the following clause:

b) soit après le 19 juillet 1985, si les termes de la convention sont les mêmes ou sensiblement les mêmes que ceux d’une convention, qu’elle remplace, de vente à cette personne conclue par écrit avant le 20 juillet 1985 entre cette personne et le contribuable puis annulée, résiliée ou inexécutée.

Pour l’application du présent paragraphe, en cas de modification d’une condition essentielle d’une convention conclue avant le 20 juillet 1985 par laquelle une personne acquiert ou détient un bien restreint ou en cas de renouvellement d’une telle convention, le bien est réputé acquis à la date de la modification ou du renouvellement. Il y a modification d’une condition essentielle lorsque la modification porte notamment sur le droit de la personne dans le bien ou dans le revenu attribuable au bien, sur la description du bien, sur la prolongation d’existence ou de détention du bien, sur les parties à la convention ou sur le prix d’achat du bien.

75. (1) La division 212(1)b)(iii)(D) de la même loi est abrogée et remplacée par ce qui suit :

«(D) toute somme, non remboursable en devises canadiennes, déposée à une institution qui était, au moment du dépôt ou à la date où les intérêts sont payés ou crédités, une institution financière visée par règlement,»

(2) Le sous-alinéa 212(1)b)(vii) de la même loi est modifié par suppression du mot «ou» à la fin de la division (C), par adjonction de ce mot à la fin de la division (D) et par adjonction de ce qui suit :

“(E) if the person exercises a right under the terms of the obligation or any agreement relating thereto to convert the obligation into, or exchange the obligation for, a prescribed security;” 5

«(E) si la personne exerce un droit — aux conditions du titre ou d’une convention y relative — de conversion du titre en une valeur prescrite ou d’échange de celui-ci contre une telle valeur.» 5

(3) All that portion of paragraph 212(1)(b) of the said Act following subparagraph (x) thereof is repealed and the following substituted therefor: 10

(3) Le passage de l’alinéa 212(1)b) de la même loi qui suit le sous-alinéa (x) est abrogé et remplacé par ce qui suit :

“and for the purpose of this paragraph, where interest is payable on an obligation, other than a prescribed obligation, and all or any portion of the interest is contingent or dependent upon the use of 15
or production from property in Canada or is computed by reference to revenue, profit, cash flow, commodity price or any other similar criterion or by reference to dividends paid or payable to 20
shareholders of any class of shares of the capital stock of a corporation, the interest shall be deemed not to be interest described in subparagraphs (ii) to (vii) and (ix);” 25

«pour l’application du présent alinéa, 10
sont réputés ne pas être des intérêts visés aux sous-alinéas (ii) à (vii) et (ix) les intérêts payables sur un titre ou une obligation — sauf un titre visé par règlement — qui sont, en totalité ou en 15
partie, conditionnels à l’utilisation de biens au Canada ou dépendent de la production en provenant ou qui sont calculés en fonction des recettes, des bénéfices, de la marge d’autofinancement, du 20
prix des marchandises ou d’un critère semblable ou en fonction des dividendes versés ou payables aux actionnaires d’une catégorie d’actions du capital-
actions d’une corporation;» 25

(4) Section 212 of the said Act is further amended by adding thereto the following subsection:

(4) L’article 212 de la même loi est modifié par adjonction de ce qui suit :

“(18) Every person who in a taxation year is a prescribed financial institution 30
for the purposes of clause (1)(b)(iii)(D) shall

“(18) Toute personne qui, au cours d’une année d’imposition, est une institution financière visée par règlement pour 30
l’application de la division (1)b)(iii)(D), doit :

(a) within 6 months from the end of the taxation year file with the Minister a return in prescribed form containing 35
prescribed information if in the taxation year the person paid or credited an amount to a non-resident person in respect of which the non-resident person is by virtue of clause (1)(b)(iii)(D) not 40
liable to pay tax under this Part; and

a) d’une part, produire au ministre une déclaration sur formulaire réglementaire contenant les renseignements réglementaires 35
dans les six mois suivant la fin de l’année si, dans l’année, elle a payé à une personne non résidente ou porté à son crédit un montant sur lequel celle-ci n’est pas redevable d’impôt en vertu de 40
la présente partie à cause de la division (1)b)(iii)(D);

(b) on demand from the Minister, served personally or by registered letter, file within such reasonable time as may be stipulated therein, an undertaking in 45
prescribed form relating to the avoidance of payment of tax under this Part.”

b) d’autre part, sur demande formelle du ministre signifiée à personne ou envoyée en recommandé, produire un 45
engagement, dans le délai raisonnable indiqué dans la demande et sur formu-

(5) Subsection (1) is applicable with respect to interest paid or credited after the day on which this Act is assented to other than interest paid or credited on amounts deposited before 1988 with a bank to which the *Bank Act* applies.

(6) Subsection (2) is applicable with respect to interest paid or credited after the day on which this Act is assented to.

(7) Subsection (3) is applicable with respect to obligations issued or extended after February 25, 1986 otherwise than pursuant to an agreement in writing made on or before that date and, for the purposes of this subsection, where the terms and conditions relating to the computation of interest payable on an obligation are changed at any time pursuant to an agreement made after February 25, 1986, the obligation shall be deemed to have been issued after that date otherwise than pursuant to an agreement in writing made on or before that date.

76. (1) Subsection 221(1) of the said Act is amended by adding thereto, immediately after paragraph (d) thereof, the following paragraph:

“(d.1) requiring any person who has acquired a debt obligation in bearer form to provide information respecting his name, address and Social Insurance Number to any other person who is required to make an information return in respect thereof,”

(2) Subsection 221(2) of the said Act is repealed and the following substituted therefor:

“(2) A regulation made under this Act shall have effect from the date it is published in the *Canada Gazette* or at such time thereafter as may be specified in the regulation unless the regulation provides otherwise and it

- (a) has a relieving effect only;
- (b) corrects an ambiguous or deficient enactment that was not in accordance

laire réglementaire, à ne pas se soustraire au paiement de l'impôt en vertu de la présente partie.»

(5) Le paragraphe (1) s'applique aux intérêts payés ou crédités après la date de sanction de la présente loi, autres que les intérêts payés ou crédités sur des montants déposés avant 1988 à une banque visée par la *Loi sur les banques*.

(6) Le paragraphe (2) s'applique aux intérêts payés ou crédités après la date de sanction de la présente loi.

(7) Le paragraphe (3) s'applique aux titres ou obligations émis ou prolongés après le 25 février 1986 autrement que conformément à une convention écrite conclue avant le 26 février 1986; pour l'application du présent paragraphe, si les modalités de calcul des intérêts payables sur un titre ou une obligation sont modifiées à une date quelconque par convention conclue après le 25 février 1986, ce titre ou cette obligation est réputé émis après cette date autrement que conformément à une convention écrite conclue avant le 26 février 1986.

76. (1) Le paragraphe 221(1) de la même loi est modifié par insertion, après l'alinéa d), de ce qui suit :

«d.1) enjoignant à toute personne qui a acquis un titre de créance au porteur de fournir comme renseignements son nom, son adresse et son numéro d'assurance sociale à toute autre personne tenue de remplir une déclaration de renseignements sur cette acquisition,»

(2) Le paragraphe 221(2) de la même loi est abrogé et remplacé par ce qui suit :

«(2) Les règlements d'application de la présente loi ont effet à compter de leur publication dans la *Gazette du Canada* ou après s'ils le prévoient. Un règlement peut toutefois avoir un effet rétroactif, s'il comporte une disposition en ce sens, dans les cas suivants :

- a) il a pour seul résultat d'alléger une charge;

Effect

Prise d'effet

with the objects of this Act or the *Income Tax Regulations*;

(c) is consequential on an amendment to this Act that is applicable before the date the regulation is published in the *Canada Gazette*; or

(d) gives effect to a budgetary or other public announcement, in which case the regulation shall not, except where paragraph (a), (b) or (c) applies, have effect

(i) before the date on which the announcement was made, in the case of a deduction or withholding from an amount paid or credited, and

(ii) before the taxation year in which the announcement is made, in any other case."

b) il corrige une disposition ambiguë ou erronée, non conforme à un objet de la présente loi ou de ses règlements d'application;

c) il met en œuvre une disposition nouvelle ou modifiée de la présente loi applicable avant qu'il soit publié dans la *Gazette du Canada*;

d) il met en œuvre une mesure — budgétaire ou non — annoncée publiquement, auquel cas, si l'alinéa a), b) ou c) ne s'appliquent pas par ailleurs, il ne peut avoir d'effet :

(i) avant la date où la mesure est ainsi annoncée s'il y a déduction ou retenue sur des montants versés ou crédités,

(ii) sinon, avant l'année d'imposition au cours de laquelle la mesure est ainsi annoncée.»

(3) Subsection (1) shall come into force on a day to be fixed by proclamation.

(3) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.

77. (1) Subsection 238(1) of the said Act is repealed and the following substituted therefor:

77. (1) Le paragraphe 238(1) de la même loi est abrogé et remplacé par ce qui suit :

"238. (1) Every person who has failed to file a return or to provide the information described in paragraph 221(1)(d.1) as and when required by or under this Act or a regulation is guilty of an offence and, in addition to any penalty otherwise provided, liable on summary conviction to a fine of not less than \$25 for each day of default."

«238. (1) Quiconque omet de produire une déclaration ou de fournir les renseignements visés à l'alinéa 221(1)d.1), de la manière et à la date que prévoit la présente loi ou un règlement d'application, est coupable d'une infraction et, en plus de toute autre peine prévue par ailleurs, est passible, sur déclaration sommaire de culpabilité, d'une amende d'au moins 25 \$ par jour de manquement.»

(2) Subsection (1) shall come into force on a day to be fixed by proclamation.

(2) Le paragraphe (1) entre en vigueur à la date fixée par proclamation.

78. (1) Paragraph 241(4)(e) of the said Act is repealed and the following substituted therefor:

78. (1) L'alinéa 241(4)e) de la même loi est abrogé et remplacé par ce qui suit :

"(e) communicate or allow to be communicated to a taxpayer information obtained under this Act or the *Petroleum and Gas Revenue Tax Act* from a transferor of property to the taxpayer that relates to the cost, capital cost or adjusted cost base to the taxpayer of the property, if, under any provi-

«e) communiquer ou permettre que soit communiqué à un contribuable un renseignement obtenu en vertu de la présente loi ou de la *Loi de l'impôt sur les revenus pétroliers* de l'auteur du transfert d'un bien au contribuable, concernant le coût, coût en capital ou prix de base rajusté du bien, pour le contribu-

sion of this Act or the <i>Petroleum and Gas Revenue Tax Act</i> or the <i>Income Tax Application Rules, 1971</i> , such cost, capital cost or <u>adjusted cost base</u> is an amount other than the consideration paid by the taxpayer for that property;”		ble, lorsque, en vertu d’une disposition de la présente loi, <u>de la Loi de l’impôt sur les revenus pétroliers</u> ou des <i>Règles de 1971 concernant l’application de l’impôt sur le revenu</i> , ce coût, ce coût en capital ou ce <u>prix de base rajusté</u> ne correspond pas à ce que le contribuable a payé pour le bien;»	
(2) Subsection (1) is applicable after February 25, 1986.		(2) Le paragraphe (1) s’applique après le 25 février 1986.	
79. (1) The definitions “prescribed” and “small business corporation” in subsection 248(1) of the said Act are repealed and the following substituted therefor in alphabetical order within the subsection:		79. (1) Les définitions de «corporation exploitant une petite entreprise» et «prescrit», au paragraphe 248(1) de la même loi, sont abrogées et respectivement remplacées par ce qui suit :	
“prescribed” «prescrit» ou «réglementaire»	“prescribed” means	«corporation exploitant une petite entreprise» s’entend d’une corporation qui, à une date donnée, est une corporation privée dont le contrôle est canadien et dont la totalité ou presque des éléments d’actif sont, à la date donnée,	
	(a) in the case of a form or the information to be given on a form, prescribed by order of the Minister, and	a) soit utilisés dans une entreprise que la corporation ou une corporation liée à celle-ci exploite activement <u>principalement</u> au Canada,	
“small business corporation” «corporation exploitant une petite entreprise»	(b) in any other case, prescribed by regulation or determined in accordance with rules prescribed by regulation;	b) soit constitués d’actions du capital-actions d’une ou de plusieurs corporations exploitant une petite entreprise rattachées à la date donnée à la corporation (au sens du paragraphe 186(4) selon l’hypothèse que ces corporations exploitant une petite entreprise sont, à la date donnée, des corporations payantes au sens du même paragraphe) ou d’obligations, effets, 35 billets, <i>mortgages</i> , hypothèques ou titres semblables émis par ces corporations rattachées,	
	“small business corporation” at any particular time means a particular corporation that is a Canadian-controlled private corporation all or substantially all of the assets of which were at that time	c) soit visés aux alinéas a) et b);	
(a) used in an active business carried on <u>primarily</u> in Canada by the particular corporation or by a corporation related to it,		pour l’application de l’alinéa 39(1)c), 40 «corporation exploitant une petite entreprise» comprend une corporation qui était une corporation exploitant une petite entreprise à n’importe quelle date dans les 12 mois précédant la date donnée;	
(b) <u>shares</u> of the capital stock of one or more small business corporations that were at that time connected with the particular corporation (within the meaning of subsection 186(4) on the assumption that such small business corporation was at that time a “payer corporation” within the meaning of that subsection) or a bond, debenture, bill, note, mortgage, hypothec or similar obligation issued by such a connected corporation, or		«prescrit» ou «réglementaire» s’entend :	
(c) assets described in paragraphs (a) and (b),		a) dans le cas d’un <u>formulaire, établi</u> par ordre du ministre; dans le cas de	
and, for the purposes of paragraph 39(1)(c), includes a corporation that was at any time in the 12 months		«prescrit» ou «réglementaire» “prescribed”	

preceding that time a small business corporation;”

renseignements à fournir sur un formulaire, déterminés par ordre du ministre,

b) dans les autres cas, visé par règlement, y compris déterminé conformément à des règles prévues par règlement;» 5

(2) The definition “employee benefit plan” in subsection 248(1) of the said Act is amended by adding thereto, immediately after paragraph (c) thereof, the following paragraph:

(2) La définition de «régime de prestations aux employés», au paragraphe 248(1) de la même loi, est modifiée par insertion, après 10 l’alinéa c), de ce qui suit :

“(c.1) a salary deferral arrangement,”

«c.1) une entente d’échelonnement du traitement,»

(3) Subsection 248(1) of the said Act is further amended by adding thereto, in alphabetical order within the subsection, the following definitions:

(3) Le paragraphe 248(1) de la même loi est modifié par insertion, suivant l’ordre 15 alphabétique, de ce qui suit :

““deferred amount” at the end of a taxation year under a salary deferral arrangement in respect of a taxpayer means

«entente d’échelonnement du traitement» s’entend d’un régime ou mécanisme, qu’il y ait ou non des fonds réservés à cette fin, applicable à un contribuable, 20 qui donne droit, dans une année d’imposition, à une personne de recevoir un montant après l’année, droit dont il est raisonnable de considérer que l’existence ou la création a, entre autres principaux 25 objets, celui de reporter l’impôt payable en vertu de la présente loi par le contribuable sur un montant lui revenant au titre d’un salaire ou traitement pour des services qu’il a rendus au cours de l’an- 30 née ou d’une année d’imposition antérieure — y compris un droit assujéti à une ou plusieurs conditions sauf s’il y a une forte probabilité qu’une de ces conditions ne sera pas remplie —; 35

«entente d’échelonnement du traitement»
“salary deferral arrangement”

(a) in the case of a trust governed by the arrangement, any amount that a 20 person has a right under the arrangement at the end of the year to receive after the end of the year where the amount has been received, is receivable or may at anytime become 25 receivable by the trust as, on account or in lieu of salary or wages of the taxpayer for services rendered in the year or a preceding taxation year, and (b) in any other case, any amount 30 that a person has a right under the arrangement at the end of the year to receive after the end of the year,

and for the purposes of this definition a right under the arrangement shall 35 include a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied;

“limited partnership loss” has the meaning 40 assigned by subsection 96(2.1);

ne sont pas des ententes d’échelonnement du traitement :

- a) les caisses ou régimes enregistrés de pensions,
- b) les régimes d’assurance invalidité 40 ou de sécurité du revenu prévus dans une police de corporation d’assurance,
- c) les régimes de participation différée aux bénéfices,
- d) les régimes de participation des 45 employés aux bénéfices,
- e) les fiducies d’employés,

“deferred amount”
«montant différé»

“limited partnership loss”
«perte comme commanditaire ou assimilés»

“salary deferral arrangement”
«entente d'échelonnement du traitement»

“salary deferral arrangement” in respect of a taxpayer means a plan or arrangement, whether funded or not, under which any person has a right in a taxation year to receive an amount after the year where it is reasonable to consider that one of the main purposes for the creation or existence of the right is to postpone tax payable under this Act by the taxpayer in respect of an amount that is, or is on account or in lieu of, salary or wages of the taxpayer for services rendered by him in the year or a preceding taxation year (including such a right that is subject to one or more conditions unless there is a substantial risk that any one of those conditions will not be satisfied), but does not include

- (a) a registered pension fund or plan,
- (b) a disability or income maintenance insurance plan under a policy with an insurance corporation,
- (c) a deferred profit sharing plan,
- (d) an employees profit sharing plan,
- (e) an employee trust,
- (f) a group sickness or accident insurance plan,
- (g) a supplementary unemployment benefit plan,
- (h) a vacation pay trust described in paragraph 149(1)(y),
- (i) a plan or arrangement the sole purpose of which is to provide education or training for employees of an employer to improve their work or work-related skills and abilities,
- (j) a plan or arrangement established for the purpose of deferring the salary or wages of a professional athlete for his services as such with a team that participates in a league having regularly scheduled games,
- (k) a plan or arrangement under which a taxpayer has a right to receive a bonus or similar payment in respect of services rendered by him in a taxation year to be paid within 3 years following the end of the year; or
- (l) a prescribed plan or arrangement;

- f) les régimes collectifs d'assurance-maladie ou d'assurance contre les accidents,
- g) les régimes de prestations supplémentaires d'assurance-chômage,
- h) les fiducies, visées à l'alinéa 149(1)y), pour paies de vacances ou congés,
- i) les régimes ou mécanismes dont le seul but est de dispenser à des employés d'un employeur un enseignement ou une formation qui vise à améliorer leur compétence au travail ou leurs connaissances en rapport avec ce travail,
- j) les régimes ou mécanismes établis dans le but de différer le traitement ou salaire de sportifs professionnels pour les services qu'ils rendent en cette qualité au sein d'un club d'une ligue qui organise un calendrier régulier de parties,
- k) les régimes ou mécanismes en vertu desquels des contribuables ont droit de recevoir une gratification ou un paiement analogue, payable dans les trois ans suivant la fin d'une année d'imposition, pour des services qu'ils ont rendus au cours de cette année,
- l) les régimes ou mécanismes visés par règlement;

«montant différé» s'entend, dans le cadre d'une entente d'échelonnement du traitement applicable à un contribuable, d'un montant qu'une personne a le droit, à la fin d'une année d'imposition, de recevoir après la fin de l'année, à condition, dans le cas où l'entente est régie par une fiducie, que le montant ait été reçu, soit à recevoir ou puisse, à une date quelconque, devenir à recevoir par la fiducie au titre d'un traitement ou salaire du contribuable pour des services rendus par celui-ci au cours de l'année ou d'une année d'imposition antérieure; pour l'application de la présente définition, le droit de recevoir un montant comprend un droit assujéti à une ou plusieurs conditions, sauf s'il y a une forte probabilité qu'une de ces conditions ne sera pas remplie;

«montant différé»
“deferred amount”

(4) Section 248 of the said Act is further amended by adding thereto the following subsection:

“(11) Interest computed at a prescribed rate under any of subsections 159(7), 160.1(1), 161(1), (2) or (11), 164(3) to (4), 182(2), 185(2), 187(2) or 189(7), section 190.23 or subsections 191(2), 193(3), 195(3), 202(5) or 227(8) or (9) shall be compounded daily, and, where interest is computed on an amount under any of those provisions and is unpaid on the day it would, but for this subsection, have ceased to be computed under that provision, interest at the prescribed rate shall be computed and compounded daily on the unpaid interest from that day to the day it is paid.”

(5) The definition “small business corporation” in subsection 248(1) of the said Act, as enacted by subsection (1), is applicable after 1985.

(6) Subsection (2) and the definitions “deferred amount” and “salary deferral arrangement” in subsection 248(1) of the said Act, as enacted by subsection (3), are applicable after February 25, 1986 with respect to plans and arrangements otherwise than with respect to a deferred amount under an agreement in writing made before February 26, 1986 by a taxpayer and his employer or former employer where the deferred amount is in respect of

(a) services rendered by the taxpayer before July, 1986; or

(b) services rendered by the taxpayer after June, 1986, where the taxpayer is obliged to defer receipt of the deferred amount and cannot cancel or otherwise avoid that obligation.

(7) The definition “limited partnership loss” in subsection 248(1) of the said Act, as enacted by subsection (3), is applicable after February 25, 1986.

«perte comme commanditaire ou assimilé» s'entend au sens du paragraphe 96(2.1);»

(4) L'article 248 de la même loi est modifié par adjonction de ce qui suit :

«(11) Les intérêts calculés au taux prescrit, en application de l'un des paragraphes 159(7), 160.1(1), 161(1), (2) ou (11), 164(3) à (4), 182(2), 185(2), 187(2) ou 189(7), de l'article 190.23 ou des paragraphes 191(2), 193(3), 195(3), 202(5) ou 227(8) ou (9), sont composés quotidiennement; dans le cas où des intérêts calculés sur une somme en application d'une de ces dispositions sont impayés le jour où, sans le présent paragraphe, ils cesseraient d'être ainsi calculés, des intérêts au taux prescrit doivent être calculés et composés quotidiennement sur ces intérêts impayés pour la période allant de ce jour au jour où ces derniers sont payés.»

(5) La définition de «corporation exploitant une petite entreprise», au paragraphe 248(1) de la même loi, édictée par le paragraphe (1), s'applique après 1985.

(6) Le paragraphe (2) et les définitions de «entente d'échelonnement du traitement» et «montant différé», au paragraphe 248(1) de la même loi, édictées par le paragraphe (3), s'appliquent après le 25 février 1986 aux régimes et mécanismes visés sauf en ce qui concerne un montant différé dans le cadre d'une convention écrite conclue avant le 26 février 1986 par un contribuable et son employeur ou ancien employeur et correspondant à des services rendus par le contribuable

a) avant juillet 1986; ou

b) après juin 1986, si le contribuable a l'obligation de différer la réception du montant et ne peut se soustraire à cette obligation en l'annulant ou autrement.

(7) La définition de «perte comme commanditaire ou assimilé», au paragraphe 248(1) de la même loi, édictée par le paragraphe (3), s'applique après le 25 février 1986.

«perte comme commanditaire ou assimilé»
“limited partnership loss”

Intérêts composés

Compound interest

(8) Subsection 248(11) of the said Act, as enacted by subsection (4), shall come into force or be deemed to have come into force on January 1, 1987, and interest computed in respect of a period ending before that day shall be compounded on and after that day.

(8) Le paragraphe 248(11) de la même loi, édicté par le paragraphe (4), entre en vigueur ou est réputé entré en vigueur le 1^{er} janvier 1987 et les intérêts calculés pour une période se terminant avant cette date sont composés à compter de cette date.

PART II

PARTIE II

AN ACT TO AMEND THE INCOME TAX ACT AND RELATED STATUTES AND TO AMEND THE CANADA PENSION PLAN, THE UNEMPLOYMENT INSURANCE ACT, 1971, THE FINANCIAL ADMINISTRATION ACT AND THE PETROLEUM AND GAS REVENUE TAX ACT

LOI MODIFIANT LA LOI DE L'IMPÔT SUR LE REVENU ET LA LÉGISLATION CONNEXE ET MODIFIANT LE RÉGIME DE PENSIONS DU CANADA, LA LOI DE 1971 SUR L'ASSURANCE-CHÔMAGE, LA LOI SUR L'ADMINISTRATION FINANCIÈRE ET LA LOI DE L'IMPÔT SUR LES REVENUS PÉTROLIERS

1986, ch. 6

80. Subsection 6(6) of *An Act to amend the Income Tax Act and related statutes and to amend the Canada Pension Plan, the Unemployment Insurance Act, 1971, the Financial Administration Act and the Petroleum and Gas Revenue Tax Act*, being chapter 6 of the Statutes of Canada 1986, is repealed and the following substituted therefor:

80. Le paragraphe 6(6) de la *Loi modifiant la Loi de l'impôt sur le revenu et la législation connexe et modifiant le Régime de pensions du Canada, la Loi de 1971 sur l'assurance-chômage, la Loi sur l'administration financière et la Loi de l'impôt sur les revenus pétroliers*, chapitre 6 des Statuts du Canada de 1986, est abrogé et remplacé par ce qui suit :

“(6) Subsections (2) and (3) are applicable with respect to amounts received after May 22, 1985 other than amounts received after that date pursuant to the terms of an agreement in writing entered into before 4:30 p.m. Eastern Daylight Time on May 23, 1985 or to the terms of a prospectus, preliminary prospectus or registration statement filed before May 24, 1985 with a public authority in Canada pursuant to and in accordance with the securities legislation of Canada or of any province and, where required by law, accepted for filing by such authority.”

«(6) Les paragraphes (2) et (3) s'appliquent aux montants reçus après le 22 mai 1985, à l'exclusion des montants reçus après cette date conformément à un accord écrit conclu avant 16 h 30, heure avancée de l'Est, le 23 mai 1985 ou à un prospectus, un prospectus préliminaire ou une déclaration d'enregistrement, produit avant le 24 mai 1985 auprès d'un organisme public au Canada suivant la législation fédérale ou provinciale sur les valeurs mobilières et, si la loi le prévoit, approuvé par un tel organisme.»

81. Subsection 17(7) of the said Act is repealed and the following substituted therefor:

81. Le paragraphe 17(7) de la même loi est abrogé et remplacé par ce qui suit :

“(7) Subsections (1), (2) and (4) to (6) are applicable to the 1986 and subsequent taxation years.

«(7) Les paragraphes (1), (2) et (4) à (6) s'appliquent aux années d'imposition 1986 et suivantes.

(8) Subsection (3) is applicable with respect to dispositions made after 1985.”

82. Subsection 55(13) of the said Act is repealed and the following substituted therefor:

“(13) Subsection (4) is applicable with respect to shares acquired after May 22, 1985 except that paragraph 110(1)(d.3), as enacted by subsection (4), is applicable with respect to shares acquired on terminations of interests in deferred profit sharing plans occurring after May 23, 1985.”

83. Subsections 83(3) and (4) of the said Act are repealed and the following substituted therefor:

“(3) Subsections (1) and (2) are applicable with respect to terminations of interests in deferred profit sharing plans occurring after May 23, 1985.”

84. Subsection 90(15) of the said Act is repealed and the following substituted therefor:

“(15) Subsections (5), (6), (8) and (9) are applicable to the 1985 and subsequent taxation years.

(16) Subsections (10) and (11) are applicable with respect to deaths occurring after December 31, 1984.”

85. (1) Subsection 126(6) of the said Act is repealed and the following substituted therefor:

“(6) Section 248 of the said Act is amended by adding thereto the following subsection:

“(10) For the purposes of this Act, where there is a reference to a series of transactions or events, the series shall be deemed to include any related transactions or events completed in contemplation of the series.”

(2) Subsection 126(14) of the said Act is repealed.

(3) Subsections (1) and (2) shall be deemed to have come into force on February 13, 1986.

(8) Le paragraphe (3) s'applique aux dispositions effectuées après 1985.»

82. Le paragraphe 55(13) de la même loi est abrogé et remplacé par ce qui suit :

«(13) Le paragraphe (4) s'applique aux actions acquises après le 22 mai 1985. Toutefois, l'alinéa 110(1)d.3), édicté par le paragraphe (4), s'applique aux actions acquises à cause de participations, dans des régimes de participation différée aux bénéfices, qui prennent fin après le 23 mai 1985.»

83. Les paragraphes 83(3) et (4) de la même loi sont abrogés et remplacés par ce qui suit :

«(3) Les paragraphes (1) et (2) s'appliquent aux participations, dans des régimes de participation différée aux bénéfices, qui prennent fin après le 23 mai 1985.»

84. Le paragraphe 90(15) de la même loi est abrogé et remplacé par ce qui suit :

«(15) Les paragraphes (5), (6), (8) et (9) s'appliquent aux années d'imposition 1985 et suivantes.

(16) Les paragraphes (10) et (11) s'appliquent aux décès survenus après le 31 décembre 1984.»

85. (1) Le paragraphe 126(6) de la même loi est abrogé et remplacé par ce qui suit :

«(6) L'article 248 de la même loi est modifié par adjonction de ce qui suit :

«(10) Pour l'application de la présente loi, une série d'opérations ou d'événements, lorsqu'il y est renvoyé, est réputée comprendre les opérations et événements liés terminés en vue de réaliser la série.»

(2) Le paragraphe 126(14) de la même loi est abrogé.

(3) Les paragraphes (1) et (2) sont réputés être entrés en vigueur le 13 février 1986.



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